



CHANGING MINDS

To educate, inform, inspire and empower people in order to affect positive change in attitudes and treatment for psychiatric illness.

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SPECIAL EDUCATION ISSUE

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Power of Strength by Yvetta Collins

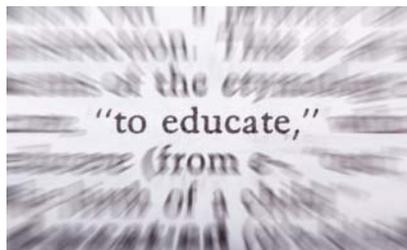
It is very difficult as parents and caregivers to manage emotions when you know your child is not getting the help they need in school to succeed or when you feel no one is listening. Our greatest dream as a parent or caregiver is to see our child perform to the best of their ability regardless of their disability. At times the disability can hinder progress, but with the right accommodations and assistance any child can be successful. It doesn't matter if their success level is learning to color within the lines, or mastering subtraction, children have a right to be educated and meet their highest achievable goal. At times a parent can become angry and frustrated if they feel their child does not have the opportuni-

ty to reach their potential. These emotions can cloud our thinking and decision making which is why planning and preparing for school meetings is important. In this issue, we will equip you with what you need to advocate for your child effectively so that you can transition from emotions to advocacy. Grab a notebook, a pen and let's get started.



Key Differences Between Section 504, the IDEA by Yvetta Collins

I regularly meet with parents while their child is in the hospital to discuss educational needs or behavior challenges in school. Quite often a parent mentions the school denied an IEP, a Section 504 was implemented or encouraged, while others ask for explanation between the two of these which are confusing to



both parents and educators. During my years advocating I've learned much regarding the IDEA and Section 504. My own daughter years ago was placed on a 504 Plan when what she needed was an IEP. I didn't have any information or

knowledge of the law, so I could not advocate effectively. So with the help of Peter W.D. Wright ESQ. and Pamela D. Wright, MA., MSW authors of WrightsLaw (www.wrightslaw.com, www.fetaweb.com), I am going to explain the difference between the IDEA (IEP) and Section 504.

Individuals With Disabilities Education Act (IDEA) 2004

In developing the IDEA, Congress stated a "disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children and disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities. " The purpose of the IDEA is to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to

meet their unique needs and prepare them for **further education, employment, and independent living**. Furthermore, the term 'child with a disability' means a child with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance [(SED an umbrella term defining different mental disorders) (see definitions at the end of newsletter)], orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason there of needs special education and related services.

SECTION 504 of the Rehabilitation Act of 1973

Section 504 is a civil rights law. The purpose of Section 504 is to protect individuals with disabilities from discrimination for reasons related to their disabilities. Unlike IDEA, Section 504 does not ensure that a child with a disability will receive an individualized educational program that is designed to meet the child's unique needs and provide the child with educational benefit, so the child will be prepared for "for employment and independent living. The child who receives Section 504 protections has fewer rights than the child who receives special education services under the IDEA. The child who receives special education under IDEA is automatically protected under Section 504.

Section 504 protects children with disabilities from discrimination, but IDEA provides children with disabilities the procedural protections which are available under the IDEA statute. To be eligible for protections under Section 504, the child must have a physical or mental impairment. [cont page 3]

Mistakes Made

by Robin Marker

Often even the most knowledgeable, well intentioned parents make many mistakes when trying to advocate for their special needs children, especially when the time for IEPs come around. Here are some common mistakes that parents and school districts make, courtesy of Robert K. Crabtree, Esq.

Parents

1. Viewing the special education process as the moral equivalent of war. Letting personal animosity toward school or teachers can distort judgment about what's best for your child.
2. Trusting school administrators to a fault. It can be assumed if someone is really nice, they automatically have our child's best interest at heart. This is not always true.
3. Waiting too long before getting good, independent advice and then wanting school to provide these services instantly. Slow steady progress in the proper direction is the way to go.
4. Failing to understand that the special needs process sometimes requires parents to educate our child's special education team. It can seem like the school is sometimes unwilling to make changes, but sometimes they just things explained to them, as to why you need certain accommodations.
5. Refusing a program or other added services that the school suggests, even on a temporary basis. How do you know it won't work if you don't try it?
6. Micromanaging your child's daily school life. If your case went to hearing, you could be reported as over-protective and unwilling to let the school do it's job.
7. Focusing on minor, non-prejudicial procedural missteps by the school. Focus on the substantial issues.
8. Not giving parental consent for school evaluations that are recommended.
9. Choosing the wrong independent evaluators "hired guns" who will say exactly what parents want them to say. They often don't have the proper training or experience for a special needs child.
10. Not providing copies of these independent, outside evaluations to school, or taking too long to provide them.
11. Not responding in a timely fashion to a proposed IEP meeting.

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Connect The Dots

Connection to Education

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Ohio Coalition for the Education
of Children with Disabilities
www.occ.org 1-800-694-6502

Division of Exceptional Children's
Services
Kentucky Department of Educa-
tion
500 Mero Street
Frankfort, KY 40601
(502) 564-4970

Kentucky Special Parent Involvement
Network
10301-B Deering Road
Louisville, KY 40272
(800) 525-7746
www.kyspin.com

Peter & Pam Wright
www.wrightslaw.com
www.fetaweb.com

Center for Effective Collaboration
and Practice
www.cecp.air.org/resources

Let's Take A Moment

by Robin Marker

It takes a lot of time and energy to raise a child with special needs. With appointments, meetings, classes and jobs, we find ourselves constantly running, which creates stress and burnout. We need to make sure that we, as parents, learn to take some time for ourselves, without worrying that we're taking time away from our children. If you remember to take some "me time", it helps to relieve stress, and makes you more refreshed to take care of your children. Here are some ideas for giving yourself a break.

- set aside personal time with your partner
- If you have more than one child, schedule special one-on-one time. Pick a date and time, mark it on the calendar, and let child decide how he or she wants to spend special time with you.
- Plan a girls'/guys' night (or afternoon) out. Go to dinner, a movie, a walk, spa day or anything else that would help you to stay connected to your close friends. And enjoy yourself!
- Ask for help! When you feel overwhelmed, ask friends and family if they can help you out with child care, even if it's just to run errands.
- Find another family that you can share child care duties with. You can pick times when you each need help, giving each other a break!
- Network with other parents and families. You can form a mutually beneficial support system, which gives you someone to share your frustrations with and get encouragement.
- Volunteer--helping others even just an hour a month really puts your problems in perspective. You will know that you are not alone.
- Set aside time to devote to special needs duties--phone calls, filling out documents, etc. If you schedule one or two times a week to do this, you won't feel overwhelmed.
- De-clutter your home to make it more peaceful and relaxing.

Always remember a more rested parent is a happier and healthier parent, so RELAX!

Difference Between Section 504 and IDEA (cont.)

This impairment must substantially limit at least one major life activity. Major life activities include walking, seeing, hearing, speaking, breathing, learning, reading, writing, performing math calculations, working, caring for oneself, and performing manual tasks. The key is whether the child has an "impairment" that "substantially limits . . . one or more . . . major life activities."

To give you a practical explanation between Section 504 and IEP/IDEA, assume that your special needs child is in a wheelchair. Under Section 504, your child shall not be discriminated against because of the disability. Your child shall be provided with access to an education, to and through the schoolhouse door. Modifications may be made to the building and other accommodations may be made for your child.

Under Section 504 regulations, a free appropriate public education is defined as "the provision of regular or special education and related aids and services that . . . are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met and . . . are based upon adherence to specified procedures." (34 C.F.R. § 104.33(b)(1)). Now assume that your child in a wheelchair also has neurological problems that adversely affect the child's ability to learn. Under the IDEA, if your child has a disability that adversely affects educational performance, your child is entitled to an education that is designed to meet the child's unique needs and from which your child receives educational benefit. Section 504 includes no guarantee that your wheelchair-bound child will receive an education from which your child receives educational benefit. Your Section 504 child has access to the same free appropriate public education that is available to children who are not disabled.

Discipline

If the Section 504 child misbehaves and the school decides the child's behavior is not a manifestation of the disability, the child can be expelled from school permanently. The IDEA child has the right to FAPE, even if expelled from school. Section 504 and ADA do not provide these protections.

Procedural Safeguards

Section 504 does not include a clearly established "Prior Written Notice" requirement. In contrast, IDEA includes an elaborate system of procedural safeguards designed to protect the child and parents. These safeguards include written notice before any change of placement and the right to an independent educational evaluation at public expense. Section 504 does not include these protections. Section 504 and IDEA require school districts to conduct impartial hearings for parents who disagree with identification, evaluation, or placement. Under Section 504, the parent has an opportunity to participate and obtain representation by counsel, but other details are left to the discretion of the school district.

If the child has a disability but does not need special education services, the child will not qualify for special education and related services under the IDEA but may receive protections under Section 504 of the Rehabilitation Act.

When deciding if the Section 504 of the Civil Rights Law or the IEP best fits your child, determine what the needs are and which law meet those needs.



The Paper Chase by Julie

Good records are essential to good advocacy. It is as simple as that.



As parents we are given copies of homework, progress reports, treatment plans, etc. It is just as important for parents to be proactive in terms of documentation. If you are ever in a position of needing to "prove" your case, your ability to provide written documentation will be invaluable.

Start your record keeping with a simple telephone log. Write down the date, whom you spoke to, what you called for, and what you were told. Many details are cleared up over the phone or in conversation with a teacher. Write these down on the log. This will also help you to remember if something was not cleared up and prompt you to follow up.

When ever you have a conversation with someone from the school, follow up with a written note to that person summarizing the conversation. Be sure to date the note and keep a copy for yourself.

Put your requests for evaluations and IEP meetings in writing. Ask for a receipt upon delivering letters, whether this is a stamped copy from the school secretary or whether it's via certified US mail. This documents the date the school was notified. By writing letters, you are creating a paper trail that documents issues and resolutions as they happen.

Finally, create a file folder or system at home to keep all of your records. Keep the copies of letters you have written as well as reports and notes that are sent to you from school. You may also want to create a file for medical records as they relate to your child's disability.

"We need your stories" Parents, families and practitioners all benefit from sharing knowledge of and emotional insight to the myriad and complex facets of mental health.

Definitions

Behavior Intervention Plan : A plan to address a behavior of your child that is not appropriate in school.

Cognitive Disability: Significantly below-average general intellectual capability that exists along with deficits in adaptive behavior (in other words, lack of ability to adapt).

Emotional Disturbance : A condition showing one or more of the following characteristics over a long period of time and to a degree that it affects a child's educational performance, resulting in:

- An inability to learn that cannot be explained by intellectual, sensory or health factors;
- An inability to build or maintain satisfactory relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

FERPA : Family Educational Rights and Privacy Act; statute about confidentiality and access to education records.

Free Appropriate Public Education (FAPE) : Special education and related services provided at public expense, under public supervision and direction, and at no cost to parents. These services must meet the standards of the Ohio Department of Education; must include an appropriate preschool, elementary school, or secondary school education in the state; and must be based on your child's IEP.

Functional Behavior Assessment (FBA) : A process that may include interviews, direct observations and other evaluations of the student's behaviors. The process is used to determine what in the child's environment trigger inappropriate behavior, as well as which replacement behaviors need to be taught to the child so that the child will receive positive results and feedback

Individualized Education Program (IEP) : A written statement for your child that is developed, reviewed and revised in accordance with federal and state regulations.

Manifestation Determination : A determination that your child's conduct was caused by, or was the result of, your child's disability. This determination is made by the school district, you the parent and relevant members of the IEP team.

Placement : Includes the services provided to a child with a disability, the location of the services and the providers of those services.

Prior written notice : Required written notice to parents when school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child

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12. Not documenting issues to the school. Always let them know when you think something is wrong, or plans aren't being followed the way you think they should.

School Districts

1. Refusing to let parents see programs either within or outside of school. Parents often wonder what they are hiding, which makes them think the worst.
2. Failing or refusing to communicate and actively coordinate with outside experts, such as your child's private therapist or tutor.
3. Ignoring reports from outside evaluators and failing to add these recommendations to the IEP when reasonable.
4. Failing to respond to a parents when a problem occurs, whether in writing or during a meeting.
5. Acting patronizing or antagonistic to parents and personalizing issues between school and parents. Sometimes when parents aren't behaving their best, school professionals need to stay respectful.
6. Sweating the small stuff, such as whether the meeting needs to be tape recorded or not.
7. Failing to schedule timely meetings, getting evaluations to the parents before the meeting and failing to give parents a written explanation of their rights.
8. Writing careless and sloppy IEPs that don't address your individual child's needs.
9. Failing to implement the IEP and then trying to cover it up, which is even worse.
10. Failing to modify an existing IEP that isn't working. Or waiting for the program and the child to collapse.
11. Botching procedural controls for things such as suspension or expulsion of students with identified or suspected special education needs. They sometimes fail to convene the team, re-evaluate IEPs and provide FAPE to suspended or expelled students with special education needs.
12. Failing to ensure that school principals and other non-special education administrators are fully informed about the special education policies and procedures and that they are following

Robert K. Crabtree specializes in special education and disability law. For more information on this topic and special education and disability law, please see ***Connect The Dots in this issue*** for contact information.