

It's That Time of Year Again

Careful Review, Renegotiation of Your Child's IEP Is Critical

By MELISSA R. GILLIS, ESQ.

At this time of year, parents with children who have individualized education programs, commonly known as IEPs, should start thinking about a few things. Not only is it time to begin reviewing and renegotiating your child's IEP's contents with the school, but it might also be time to consider having an updated evaluation done. In addition, it's a good idea to look at the specific goals contained in the IEP and compare it to your child's academic and social successes in order to determine what your position will be relative to your child's service delivery.

The idea of FAPE, or a child's right to a 'free and public education,' is still the dominating and controlling factor in our special-education laws. This requires schools, though their IEP teams and specialists, to deal with current and ongoing issues through the least restrictive alternatives, shared aids, individual aids, speech or language intervention, providing additional time for test taking, and other strategies aimed at getting children to their appropriate academic level. Finding a common ground can be difficult, so it is of the utmost importance that parents are familiar with all sections of the IEP and how to use the document to set or modify goals and expectations.

There are times when a school district will seek to test or re-evaluate your child. Many times, parents assume this is the school's way of trying to take away services from their child, and they reject the idea of re-evaluation out of fear of the results. For example, maybe your child has taken positive strides forward in a particular area, and so a shared aid is now more appropriate than an individual aid. If you are sure

that re-evaluation will show the same level of need as previously determined, then you should welcome the testing. If the result comes out different, and your child has improved enough that he no longer needs services, you will always have the option of private evaluation at your own expense.

Do not assume the testing entity is on the payroll of the school, and therefore the results will be skewed. They are accurate more often than not, and

may seem like a double standard (you have to strictly follow the time frames, but you are supposed to give schools a small pass), focusing on this instead of being solution- and goal-oriented can cause unnecessary defensiveness or paranoia on the part of a parent.

Bottom-line Reality

The reality is that school districts function like a business and, as such, deal with



There are times when a school district will seek to test or re-evaluate your child. Many times, parents assume this is the school's way of trying to take away services from their child, and they reject the idea of re-evaluation out of fear of the results.

parents need to accept the fact that children will fluctuate in their abilities and skills over time. If results show that your child continues to have the same needs, then you will assure yourself that either the IEP will either remain the same or additional services will be added. Sometimes parents are so afraid to lose services that they forget that, as students develop and mature, their needs change. In such instances, parents do a disservice to their child by not finding out their child's current level either way.

Parents need to make sure that they comply with timing requirements as well. A common frustration parents face is when the school district does not seemingly comply with the same requirements, or uses school days instead of weekdays to allow 'extra' time. It's important to not focus on this too much unless the deviation from the requirement is egregious. While it

illness, absenteeism, and IEP teams being overloaded with students and parents requiring their attention, particularly as we march into April.

When preparing to meet with the school to either discuss the IEP or review an evaluation, take note of certain parts of the IEP that will be most relevant in moving the discussion forward. The educational performance section, where areas of curriculum are discussed and specific needs of the student are assessed, along with the input of the teachers, will be important. The section on current performance levels and measurable annual goals is also key, because this is where the most child-specific information is located. Gather examples of your child's actual work and test results, evidencing whether he or she met previous goals set, how far away they are from accomplishment, and how they have developed over

the course of a term or year.

It's also a good idea to compare the benchmarks to the actual academic levels to determine if your child is on track to meet goals, or if they are now farther behind than before. And finally, know the service delivery section and what actual services are being received compared with what was to be provided. Do they match? Have those goals been satisfied? Have recommendations been followed?

Knowing the ins and outs of your child's IEP will only help you in renegotiating it and will allow your precious meeting time

with the IEP team to be result-oriented instead of unproductive because you become angry or defensive when the school district does not agree with your own assessment. You need to implore the school to assist with the common goal of your child's success, not make demands unsupported by the law.

Remember, after the team meetings are complete and you receive the draft IEP, the document can be accepted in full, rejected in totality, or accepted in part and rejected in part, but you must be specific about what you accept and what is rejected. If you reject

the IEP, you should then request a meeting to discuss the rejected portions, remembering that you must accept some part of the IEP in order to remain fully protected, and that the portion of the IEP not rejected will be automatically accepted and implemented immediately. ❖

Melissa R. Gillis, Esq. is an attorney with Bacon Wilson, P.C., working in the firm's domestic, special education, and real estate departments; (413) 781-0560; baconwilson.com/attorneys/gillis