Being a Meaningful Partner in Your Child’s Individualized Education Program (IEP)

By Denise Stile Marshall, M.S., COPAA Executive Director copaa.org

Denise Stile Marshall graduated from Johns Hopkins University with a Master of Science in Applied Behavioral Science. Denise has 30 years experience in the field of disabilities in a variety of support, management, and advocacy capacities. She is a dynamic trainer, experienced in leading sessions for participants of diverse abilities and experience levels. Prior to becoming the executive director of COPAA in 2005 Denise was the program manager and trainer for Maryland Leaders in Disability Policy; the director of training and educational outreach for the national organization TASH, and a positive behavior support specialist and director of the National Training Center for The Kennedy Krieger Institute in Maryland. Denise’s specific areas of interest are positive behavioral supports, prevention and reduction in the use of restraints, seclusion and aversive techniques, family supports, grassroots advocacy, self-advocacy, and experiential learning. Denise serves on the Board of Directors of The Association for Successful Parenting (“TASP”).

Know Your Rights

If you are the parent of an eligible student under the Individuals with Disabilities Education Act (IDEA), you need to know what the law requires and what you want for your child so you can participate as a meaningful partner throughout the process.

Every public school child eligible for special education and related services needs to have an Individualized Education Program (IEP). The IEP must be designed specifically for that child and must be a truly individualized document. The IEP creates an opportunity for parents, teachers, school administrators, related services personnel and the child (when appropriate) to work together to ensure that the student has an educational program that puts them on a trajectory that leads to independence and competence; a program that fulfills the IDEA’s purpose “to educate student with disabilities to prepare them for further education, employment, and independent living.”

The IEP should be, therefore, the cornerstone of receiving a quality education. Parents and students (when appropriate) are key members of the IEP Team. Congress and the courts have long recognized that parent participation in decision-making is essential to implementing the educational rights of children with disabilities. A parent’s most basic right as an IEP Team member is as an equal participant.

The “Findings” section of the IDEA states, “[a] lmost 30 years of research and experience has

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demonstrated that the education of children with disabilities can be made more effective by strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.3

There are also several important procedural requirements to ensure parents can meaningfully participate. The school district must notify parents well in advance of the IEP meeting so they can make arrangements to attend. The meeting must occur at a mutually agreeable time and place. Additionally, parents must receive notification of the meeting’s purpose, invited attendees and whether transition planning and services will be discussed. Transition planning is required for students at age 16; however, some states begin as early as age 14. Parents must be informed of their right to have individuals present at the meeting with special knowledge or expertise about the child.4 The written notice must be provided in the parents’ language of origin.5

Generally, schools are responsible for initiating IEP annual meetings. As a full member of the team, however, parents can request a meeting at any time. The written request must clearly state the reason for the meeting, such as to review your child’s progress, placement or educational and/or support services.

The meeting should result in a written IEP for your child, which is the primary vehicle to protect his or her right to a Free Appropriate Public Education (FAPE). The IEP is an agreement between parents and the school district and outlines the program of special education, related services, supports, and accommodations to be provided.

Parents can consent or object at any point during IEP process. This right of “informed consent” is a core right and should be exercised. It may be a vehicle to require the right to observe, retain records, reports and IEP drafts in advance of the formal meeting. Schools must notify parents prior to making decisions that impact the student. The right to consent and object allows parents to ask all reasonable questions and to have answers before any changes can be made or consent sought. Parents’ rights to challenge are necessary ingredients for implementation of an effective educational program as articulated by the IEP.6

Keep in mind, “special education” is “specially designed instruction ... to meet the unique needs of a child with a disability.”7 “Specially designed instruction” is “adapting ... the content, methodology, or delivery of instruction ... [t]o

3 20 U.S.C. §1400(c)(5)(B)
4 See 34 C.F.R. §300.322.
5 4 C.F.R. § 300.503(c).
7 20 U.S.C. § 1401(29) (emphasis added); see also 34 C.F.R. §300.39(a).
address the unique needs of the child that result from the child’s disability; and … [t]o ensure access of the child to the general curriculum, so that the child can meet the educational standards … that apply to all children.”

Under these definitions, “special education” is clearly a type of instruction, support or service and not a place or setting. Once instruction for an individual child has been tailored to address his or her needs, a decision needs to be made regarding placement. Services and supports may be provided in a variety of settings; however, mainstream classroom environments must receive first consideration. Thus, a school district cannot fulfill its obligation to provide “special education” by simply placing a child with special needs in a given classroom or program designated to serve only students with disabilities.

Parents have a right to expect that their child will receive a FAPE; be provided an opportunity to participate in the general education curriculum; and be educated in regular education classes to the maximum extent appropriate in accordance with his or her individual needs.

Prepare for the Meeting

To prepare for the IEP meeting, parents should aim for children to reach the following goals: grade level reading ability, achieve with his/her peers in the general curriculum, know how to ask for what one needs, graduate with a regular diploma, and have the skills to obtain employment. It is not sufficient to simply to make progress; a child should have the ability to master the material, achieve grade level standards and reach his or her goals. Every IEP needs to contain measurable, attainable goals and individualized services, accommodations, and supports necessary to help children succeed. Data show that setting high standards for students with disabilities consistently leads to greater learning; this includes students with intellectual disabilities. Students with specially designed instruction, appropriate access, supports, and accommodations, as required by IDEA, can achieve more than previously believed and can meet the same achievement standards as nondisabled peers. Parents must advocate for the specialized instruction, support and accommodations that children need to be successful.

It is important to remember, IDEA requires that students with disabilities have access to the same curriculum (according to their individualized needs) as students without disabilities so that they can meet the same educational standards that apply to all children. The Elementary and Secondary Education Act (ESEA) establishes the expectation that students with disabilities can meet the same standards as students without disabilities and requires accountability for the reading and math outcomes for these students on state assessments.

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8 34 C.F.R. § 300.39(b)(3).
Parents must be organized and thorough. It is important to obtain all records, school work, assessments (formative and summative), progress reports and to monitor outcomes. When reviewing district reports, make sure the assessments used are sufficiently documenting and presenting the whole child – as required by IDEA.\(^\text{11}\) Remember, the IDEA has a list of requirements for the evaluation process, including: the assessor must rely on a variety of assessment tools and strategies, appropriate assessment tools to evaluate a given outcome, and that assessments can sufficiently identify all of the child’s unique special education and related services needs.\(^\text{12}\) When reviewing standardized assessments (e.g. reading, math, and other subjects), it is acceptable to use standard scores from past assessments to evaluate a child’s current progress. Both formative (e.g. end of unit tests) and summative (e.g. annual tests) can shed light on whether a child’s skills are improving, remaining stagnant, or dropping. These data should be helpful to you and the school team in making decisions together about your child’s needs.\(^\text{13}\)

Parents should know grade-level academic content standards for the state and district of residence and use them as a guide to determine what your child should know, IEP goals,

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\(^\text{11}\) Watts, C. and Favaloro, M. Preparation and Advocacy Strategies Before the IEP Meeting (2013 COPAA Conference)

\(^\text{12}\) See 20 U.S.C. §1414(b)

\(^\text{13}\) Watts and Favaloro, 6.
and what specially designed instruction, related services, or supports will enable them to reach those standards. This information is readily available on your state’s department of education website.

For example, if a child must learn to communicate with an assistive technology (AT) device, the use of assistive technology is not the primary goal. Assistive technology can be incorporated into the IEP in several ways, including:

- As a condition of goal or objective (e.g. “Using a voice output communication device, child will name the city and state in which they live….“)
- Specially Designed Instruction (e.g. “Access to a computer for tasks longer than one paragraph“) and as an accommodation for testing
- Related Services (e.g. “Student and parents will be trained by an AT consultant in the use of AT“)
- Supports for School Personnel (e.g. “Teacher of child with hearing impairment will be trained in use and maintenance of FM system.“)  

IEP’s have traditionally focused on functional skills, such as counting money and making change, identifying street signs, self-care, naming colors, pre-vocational tasks and travel skills. However, for any student to function as independently as possible, today’s critical skills include: communication, decision-making, self-advocacy, technology use, literacy, basic math, social interaction, dependability, getting along with others, and asking for help. The ultimate goal, of course, is high school graduation and college or career readiness.

Parents should be prepared to define and prioritize a child’s needs in a way that fits the educational setting and incorporates today’s functional work-life skills. It is important to remember that the IEP is about the academic, social, emotional, and functional outcomes in today’s world.

As part of the preparation strategy, review whether it is necessary to write letters to the school district in advance of the IEP meeting. Generally, a written letter is standard to request copies of assessments or educational records or an IEP meeting. A well composed letter detailing concerns and requests can often be a good advocacy strategy in advance of the IEP meeting. A good letter should also be compelling and persuasive. Most of all, the letter must clearly state the request, requested rationale and indicate the time frame in which it is needed. Essentially, follow the adage, “Say what you mean and mean what you say.”

15 Murnane and Levy (1996). Teaching the new basic skills. Harvard University; The Free Press.
16 Watts and Favaloro, 11.
Who and What to Bring to the Meeting

Do not attend the IEP meeting alone. For many parents, the presence of an advocate at an IEP meeting, paid or volunteer, is a necessary to be a meaningful participant in their child’s education. Often, emotions are running high and parents are outnumbered by school officials. This setting, combined with the complex legal language of IDEA and unequal access to the assessment and evaluation information, frequently creates anxiety and imbalance for the family. An advocate who has knowledge of IDEA law and the child’s needs can make a positive difference.

IDEA allows advocates to attend IEP meetings and participate in the process. Under 20 U.S.C. § 1414(d)(1)(B)(vi) of the IDEA, the IEP team may include “individuals who have knowledge or special expertise regarding the child” at the discretion of the parent or the agency.” Under 34 C.F.R § 300.613(b)(3) of the IDEA regulations, parents have the “right to have a representative of the parent inspect and review the records.”

Whether it is the first or tenth meeting, parents should bring all reports, evaluations and prior IEP records to the meeting. Additionally, parents should have a notepad to take notes and a recording device to record the meeting, if preferred. Parents often record IEP meetings so they can go back and review the discussion. Federal law is essentially silent on taping, however, check state law and regulation for clarification.

Parents should ask as many questions as possible during the meeting. Write down all meeting outcomes and make sure to document updates in the IEP.

17 Letter to Baugh, 211 IDELR 479, 408-9 (OSEP 1986), stated that regardless of the absence of instruction in IDEA, a school could not refuse to hold the IEP meeting because the parent wanted to tape the meeting.
What NOT to include in an IEP

The IEP, designed with IDEA, should only be used to document services and supports that confer educational benefits that are positive or preventative. Interventions such as planned use of seclusion rooms or restraint do not belong in a program or plan. The need for the prohibition of such emergency techniques as a planned intervention is immense. Only students with disabilities have IEPs; this group of students has been disproportionately subjected to the dangers of restraint and seclusion. Once written in a plan, the IEP team can freely use restraint or seclusion, often with no requirement for review or revision and without the parent’s knowledge. This is inconsistent with preventing and reducing emergencies and has been shown to increase, rather than decrease, the use of restraint and seclusion. Once restraint and seclusion is included in a program or plan, it is very difficult for a parent to remove the language/allowable use. Information about educational setting/placement, events to avoid, known ways to calm your child, and effective teaching strategies should be written in the plan.

To sign or Not to Sign

Nothing in the IDEA requires that a parent signs the IEP the first time it is discussed or reviewed, nor does a parent have to agree with a placement or sign the consent drafted by the District. A parent may limit consent and/or provide for certain conditions, or consent to amend placement on an interim basis. Parents should know if whether state law requires a signature. It is important to note, a lack of signature may indicate assent.

Parents should review the entire document prior to signing. All agreed upon points discussed should be included in the document. It is possible to sign and indicate that a signature only verifies attendance. If in disagreement with any or all of the proposed IEP, objections must be submitted in writing and included with the IEP minutes. Indicate next to your signature that there is a written opinion. Be sure to get a copy of the entire IEP.

18 http://stophurtingkids.com/2013/11/05/the-importance-of-prohibiting-restraint-as-a-planned-intervention/
After the meeting

Organize and review all documents and submit any corrections promptly and in writing. Keep copies of all documents. Use written communication such as email and notes to check on implementation. Visit your child’s school periodically to observe the classroom or building. If concerns exist about a potential delay or lack of services or supports as required in the IEP, send a notice, in writing, outlining concerns or objections as soon as possible. Parents should listen to children, as appropriate, and help them understand what they have a right to expect from their school team.

Students attending IEP’s

IDEA does not require that the student attend the IEP meeting unless transition planning will be considered and discussed. Who then decides when and how a child may participate in an IEP meeting? This issue was addressed in the Analysis of Comments and Changes in the preamble to the final Part B regulations. The Department of Education explained:

Until the child reaches the age of majority under State law, unless the rights of the parent to act for the child are extinguished or otherwise limited, only the parent has the authority to make educational decisions for the child under Part B of the Act, including whether the child should attend an IEP meeting. (71 Fed. Reg. at 46671)
In reality, parents and children often make this decision together. It is not uncommon for parents to encourage their child to take part in developing their own IEPs. Some children in elementary school attend the IEP meeting to learn about the process or to share information about themselves. With today’s functional skills, as the child ages, it may be a good idea to encourage them to take a more active role in the IEP process. This allows them to have a voice in their education and learn self-advocacy and self-determination skills. Older students may even lead the IEP meeting; specific materials exist to help prepare students for such a role.19 In any case, if a child does not attend the meeting, parents should explain any decisions or changes to programming or the school day to the child.

Under IDEA, if the purpose of the IEP meeting will be to discuss postsecondary goals and required transition services, the school must invite a child to attend the meeting.20 If a child does not attend an IEP Team meeting, the public agency must take other steps to ensure that the child’s preferences and interests are considered. Also, to the extent appropriate, with the consent of the parents or a child who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

An “Appropriate Education”

As a result of advances made during the past 40 years to protect the civil rights of children with disabilities, millions of individuals are now able to enter the workforce, pay taxes and live productive lives as a result of receiving an appropriate education. It is the distinct purpose of IDEA that eligible students receive an education that allows them to become the most they can be and make meaningful contributions to his or her community.

The Council of Parent Attorneys and Advocates, Inc. (COPAA) is an unparalleled independent, nonprofit, peer-to-peer network of attorneys, advocates, parents and related professionals. COPAA is dedicated to protecting and enforcing legal and civil rights of students with disabilities and their families and is premised on the belief that every child deserves the right to an equal and quality education that prepares them for meaningful employment, higher education and lifelong learning, and full participation in his or her community.

19 http://nichcy.org/schoolage/iep/team/student
20 34 C.F.R. § 300.321(b)