

"POP-UP" IEP

What school staff may tell you...

"We've never had a child like yours in our school."

Problem: Too often, school staff have not been informed about good practices that support children with significant physical and cognitive disabilities. This has resulted in an assumption that students with significant disabilities can only receive special education in "special" schools or separate programs that are often located outside their communities. Every member of the IEP team, including the speech, physical and occupational therapists, can and should be expected to help their schools support children in their school community. The legal standard to be considered is "meaningful benefit" – can and does your child benefit educationally from access to the general classroom with services and supports?

Possible Responses for Parents/Advocates:

1. "Susan has always been successfully included in a community preschool and in our neighborhood. It is very important to Susan and to us that she attends school with her friends and her brothers and sisters. We know that with proper supports and services, Susan can benefit."
2. "We agree that Susan will require specialized support with her physical needs during the school day. We are sure that the IEP team can come up with a plan to provide the help she will need."

Federal Law: (IDEIA), 2004 Sec. 1400. (c) Findings. Congress finds the following: (1) 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 with 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. (4) (D) providing appropriate special education and related services, and aids and supports in the regular classroom, whenever appropriate...

"We'll use teacher observation to measure that IEP goal."

Problem: It is not going to be possible for you and school staff to know if your child is making progress toward meeting EP goals without "objective measures." This means that there is something besides what the teacher thinks or sees to determine progress. This could be counting the number of times your child successfully completes a class assignment, a simple weekly checklist of sight words recognized, or a more formal assessment tied to your child's goals. A structured observation by the teacher or another member of the school staff can be one way to measure progress. Another issue that might be is that the goals may not be written very well. Check to see if the goals in your child's IEP are written so they can actually be measured.

Possible Responses for Parents/Advocates:

1. "It's not going to be possible for me to know if s/he is making progress unless we have some objective measures written into the IEP. What other measures can we use to track progress toward reaching these goals?"
 2. What kind of class work/homework can we monitor to ensure that this specific goal on the IEP will be addressed?"
- "What assessments does the school already employ that we might use for this math goal?"

Federal Law:

Sec. 300.347(a)(2) require that the IEP include: a statement of MEASURABLE annual goals, including benchmarks of short-term objectives. Also, section 300.138(a) presumes that children with disabilities will be included in general state and district-wide assessments - go to links for more information on this topic. Also, there is a strong emphasis in Part B that the goals of the IEP will be attached to the general curriculum.

"We don't normally write that into the IEP."

Problem: The district is legally bound to implement only those services that are written into the IEP. Therefore your child's educational needs must be documented in the IEP. Items to be listed in the IEP include all accommodations and modifications; specialized devices; what, where, when, how much, and how often educational services will be provided; who will provide these services; and skills your child will be expected to master. The following skill areas should be assessed and included as appropriate: academics, adaptive technology; social interaction; independent living skills; recreation and leisure; career education, self-advocacy skills, etc.

Possible Responses for Parents/Advocates

1. "We feel that everything we agree upon should be written into the IEP. Then the expectations for everyone's part in implementing the goals and accommodations are clear. Having everything documented in the IEP will also help other staff when Anna transitions to middle school and high school and would make it easier for another school if our family were to move."
2. "It sounds like we all agree on the goals and services that are important for Reggie. Let's think how we can write them into the IEP."

Federal Law: Sec. 300.324 Development, review, and revision of IEP. (a) Development of IEP--(1) General. In developing each child's IEP, the IEP Team must consider— (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. IDEA 2004 (Public Law 108-446):Section 602 (9) FREE APPROPRIATE PUBLIC EDUCATION – The team ...means special education services and related services that B) Meet the standards of the State Educational agency;(D) are provided in conformity with the individualized education program required under section 614(d)

"We took the liberty of filling out a 'draft' IEP"

Problem: A lot of school personnel, realizing the limited amount of time in the IEP meeting, may draft an IEP for the student ahead of time. The problem is, if it was not created in context of the discussions, concerns, and priorities of the parents and other IEP team members, it is out of compliance with the law. A draft IEP is truly only a list of proposed recommendations that the educational personnel happen to put on the actual form. It carries no weight until the considerations of the draft have been discussed and agreed upon by the entire IEP team, including the parent. It is true that to actually discuss, agree upon, and write the IEP in one 1.5 to 2 hr. meeting is usually impossible. Beginning to see the IEP "negotiations" as a series of meetings, emails, phone calls is probably more in line with reality. As long as you are involved with the draft, it does make sense to work ahead of time on the IEP.

Possible Responses for Parents/Advocates

Two weeks before the scheduled IEP meeting -

1. " I wanted to make sure that before we meet in two weeks, if you will be creating a draft of Nicole's IEP, that I get a copy of that 10 days before the meeting, so that I may come to the meeting prepared to talk about the recommendations in the draft. Better yet, let's set up a time to work on the draft together." If you get to the meeting, and a draft is presented that you didn't know had been created -
2. "Because I didn't have time to look at this draft ahead of time, let's have a discussion about each of the elements, and as a team, we can incorporate the parts of the draft we determine are needed for Mike into the one we write today."

Federal Law: 20 U.S.C. 1414 (d) The term "individualized education program" or "IEP" means a written statement for each child with a disability is developed, reviewed, and revised in accordance with this section ...Sections 30D, 343 (c) (iii) and 300.346 (a) (1) and (b): Parents are considered equal partners with school personnel in making these decisions. The team must consider parents requests and provide written notice of team's refusal.

What school staff may tell you...

Transition services: "These are the only job training opportunities we offer at this school."

Problem: Oftentimes, children's potential career interests/skills are neglected because the emphasis of education is placed on the core academic curriculum (i.e., reading, math, science, and social studies). However, ... career education is an important component that needs to be addressed. Individual Transition Plans tend to be minimal in scope because teachers may have limited time, resources or knowledge to implement appropriate transition planning. Instead of selecting careers based on disability, it is essential that transition plans be developed around the strengths and interests of the child.

Possible Responses for Parents/Advocates:

1. "Maddy loves to sew. I know the school has had her selling candy in the school store for the past two years, but we would like to see her gain a variety of work experiences. Let's start by identifying job sampling opportunities related to Maddy's interests, such as working at a fabric store or a clothing store."
2. "Even though Keenan's vocational rehabilitation counselor is unable to provide services until he is 18, she suggested that we begin assessing the services he is receiving and determine when he will lose entitlement to those services. It is important to know which support services will be ongoing, which ones will be lost, what the eligibility criteria are for new and potential services, and if we need to sign up for any waiting lists. Keenan wants to move out and be independent, and thus, services need to be coordinated to ensure that he has a smooth transition from school to work."

Federal Law: Section 300.43 (a)(1)(2) Transition services. (a) Transition services means a coordinated set of activities for a child with a disability that-- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; (2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes-- (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

Section 300.321(b)(1)-(3) IEP Team. (b) Transition services participants. (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under Sec. 300.320(b). (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

IDEA 2004 (Public Law 108-446): Section 613 (d)(1)(A)(VIII) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter-- (aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; (bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and (cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

"Our district doesn't put technology into the IEP."

Problem: This statement is incorrect. The law provides for technology services as part of students' special education programs. What this kind of statement may indicate is that the IEP members are not certain what type of technology is available, how to get it, or how to use it. For students with significant communication, sensory, cognitive, or physical disabilities, the use of technology to assist teaching and learning can make the difference between accessing genuine opportunities for literacy and academics and a school day that is limited to low level functional or "practice" activities.

Possible Responses for Parents/Advocates:

1. "I am sorry, but Marc needs to have a Touch Talker to communicate with others. My concern if we do not write this into the IEP is that he will not get it. If you would like information on where you can find this for Marc, I have it at home and can call you with the information."
2. "If we don't write this into the IEP, then my concern is that Marc will not get this keyboard. He needs this keyboard for middle school. We did a trial run with it at his former school last year and Marc improved wonderfully in his writing skills."

Federal Law: (IDEIA), 2004. 1414 Development of IEP (d) (3) (B) (B) Consideration of Special Factors. The IEP Team shall (v) consider whether the child needs assistive technology devices and services. 1401 Definitions (1) Assistive Technology Device. (A) In General. The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. (2) Assistive Technology Service. The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

"We're not convinced your child needs that... We're the professionals; we know what's best for your child."

Problem: This statement will obviously create an "us against you" scenario if the reason other members of your IEP team say they aren't convinced about a service for your child is really due to other things besides that child's need. (i.e. money, bias against the service you are requesting etc.) If you get this response, whoever says it should be able to clearly define the reasons why they are "not convinced" in context to your child. Make sure you are open to their reasons - they might be good. If they only give you more "hurdle talk" (i.e. 'We've never done that here before'), bring the conversation back to WHY your child needs what you are asking for. Make sure you can articulate clearly why your child needs the service you are requesting. Have as much objective assessment/information as possible about your child and about the services for your child (i.e. bring in an article about the use of fm systems), to make the case as to why your child needs that.

Possible Responses for Parents/Advocates:

1. What are your reasons for feeling that Ellie doesn't need this?" Don't let them use more hurdle talk!
2. If they do, say "That's not really a reason that has to do with Ellie."
3. "I'm glad that the law requires us a team to have a dialogue on the development of Ellie's IEP. I understand we may not always agree. Let me tell you again why Ellie needs this service based on the objective assessments we know about her."
4. "How about if we write this in as a trial to see if it works for John?"

Federal Law: Sections 300.343(c)(iii) and 300.346(a)(1) and (b) Parents are considered equal partners with school personnel in making these decisions, and the IEP team must consider the parents' concerns and the information that they provide about their child in developing and implementing the IEP. Also, the team must consider issues from team members and give a response.