



### **When the Partnership Breaks Down**

The only way a child with special needs is going to make substantial progress is with the full cooperation of parents, school personnel, service providers, and, of course the student. Hopefully, things run smoothly and everyone is satisfied with the child's placement and progress. However, parents of a child with a disability know that bumps are likely to happen in the road to academic success.

It is comforting to know that our education law has built-in protections to see that your child has available the services necessary to help him or her succeed. At the minimum, state regulations must meet the federal regulations. They can be more, but not less, than the federal regulations.

These are the keys to success: supports, services, teamwork, and a full understanding of how to make such children successful along side their peers to the maximum extent possible. Such a drastic change from isolation in "special" classes for all or most of the day will require a great deal of education for our teachers and administrators, and commitment on the part of everyone. Successful instruction in an inclusive setting requires special expertise on the part of teachers. That can only happen if teachers are given substantial training in the area of inclusive and multi sensory instructional techniques. Parents should be aware of some misconceptions that still surface. Sometimes people believe a child will outgrow many difficulties are actually disability related. Watch for such phrases as, "She or he will grown out of it," or "She just needs to try harder", or "He just isn't motivated", or "He will catch up eventually." Children do not outgrow disabilities. Neither should they sit on one level with absolutely no progress. The very nature of learning disabilities means progress significantly below the expected level of performance. Children with disabilities do not mature and "catch up" without significant intervention and supports.

If you believe your child is not making meaningful progress, or if you are struggling to redo the day's assignments at home, it may be an indicator that an evaluation is in order to determine your child's individual needs. Hopefully the situation can be resolved on a local level, ideally within the school itself. If your child is not successful in school, he/she has the right to be evaluated and receive any services and supports needed for success. Many districts will then write an IEP. You may wish to read about the IEP process at this site.

Remember, time is never on the side of your child. You have only 12 years to get that public education, except in some instances where the team may take advantage of the IDEA maximum age of 22. Those years go by very quickly. If you believe words are falling on deaf ears, there are several logical steps that will almost always lead to successful resolution of a problem.

- You have gone to the teacher who cannot offer a resolution.
- If your child is receiving services under IDEA, or accommodations under 504, I recommend calling for a meeting of team personnel directly involved with the child's education.
- It has been my experience that at this point any issue can be resolved *if the team is focused on the needs of the child and the appropriate supports needed by the teaching staff.*
- If there is obvious disagreement at a team meeting, consider writing a Letter of Understanding and making an appointment to visit personally with the Director of Special Education. Take along any input from the teacher and pertinent testing or medical records. It is to everyone's advantage, especially your child, if you can problem solve at this level.
- If your child has not received any special services you may request the school based assessment team meet to review the progress or problems. Ask for a timeline, or it may take a year for this team to try a number of interventions before referring to Special Ed for evaluation. If the district finds no problem as the result of an evaluation, and you know your child is not progressing as much as his or her peers, you can ask for an independent evaluation at district expense. You can select the evaluators as long as they meet the criteria of the district's evaluators. Always make any request in writing.
- If a local meeting does not yield positive results, you might send a copy of any documentation you have collected along with a letter of concern to your State Department of Education. School administration can give you that address and phone number. You can also find it online, as well as your state's special education regulations. Include any "Letters of Understanding" or other documents you have written to local personnel. Hopefully, the State can intervene and may offer mediation.
- Mediation is strongly encouraged, but it is important to know you do not have to accept mediation. You have to use your judgment on how long you have been trying to resolve the differences, how much more time your child can afford to be without services, and whether you believe the district will act in good faith following through on recommendations that come out of mediation. You should know that mediation is binding, both parties sign a contract, and nothing that is said in mediation can be used in a due process hearing.
- Professional mediators run mediation meetings, and some of them are also professional facilitators.
- You can request a facilitated IEP meeting. Your district would need to agree to the process, at which time both you and the district would come to agreement on the selection of the facilitator. Such a meeting can be very helpful, as a well trained facilitator with a thorough background knowledge of special education can help a

district come into compliance with the law on how an IEP meeting should proceed.

See The IEP for an understanding of how an IEP meeting should be conducted.

- If you do not feel mediation might resolve the issues, you have the right to file a formal complaint with your State Department of Education or the Office of Civil Rights if it is an issue of discrimination. They can give you the guidelines for filing.
- Usually you can start the process by writing a fairly short letter stating explicitly that you are filing a formal complaint against your school district on behalf of your child. Then follow with a numbered list detailing your concerns. This approach helps keep you focused. It also enables the state to address all concerns precisely as you list them. You do not want to generalize in this letter. This is the time you would include copies of all correspondence, evaluations, IEP's, pertinent medical evaluations, etc. The clock starts ticking as soon as the State receives your complaint, and they have 60 days by law to resolve a complaint.
- It is important to include all of your issues in the initial complaint, as any new issues added later can start the 60 day clock ticking all over again.

### **What is a Facilitated IEP meeting?**

The rules for procedure at an IEP meeting were written for reason, to ensure that the team follows the steps in the logical order before finally determining placement. We now have the option of asking for a facilitated IEP if things are not working out. A facilitator can bring the team back on track, model how a meeting should be conducted, and educate the parties on how to successfully conduct a meeting that yields meaningful services for a child. The district pays the fee for the facilitator, and it is optional that a district agree to such a meeting. I have found such meetings not only useful, but productive in helping teams build more positive relationships along the way.

Hopefully, by utilizing effective communication skills and keeping careful documentation, you will never have to file such a complaint. However, the complaint process is still viewed as a friendly way to resolve issues by drawing on the technical assistance and expertise that State level personnel possess. It does not involve lawyers or any legal expenses for you.

States may vary on their requirements for filing a complaint. So parents should consult with their state department of education on the requirements for their state. That department should have parent friendly staff who will be happy to assist you.

Information at this site is not to be construed as legal advice. Rather it is designed to help parents utilize advocacy strategies that will empower them to be equal participants in the education of their child.