

Special Education Law Tips

November 2017

2 Things that will help your child with school

We know you don't have a ton of spare time, so we designed our newsletter to have 2 (brief) Things about special education law. Feel free to share. Thank you!

THING 1

The IEP Team

So you've received a notice to attend an IEP meeting and you're wondering who is going to be there? Who **must** be there? and Can someone be absent or leave early? Since the law on the IEP team is so important, here are the answers to these questions.

Who is on the IEP team?

IDEA requires that a **minimum** of 5 people be present at an IEP meeting ^{fn1}:

- (1) at least one of the parents of the child with a disability;
 - (2) at least one general education teacher of the child;
 - (3) at least one special education teacher or service provider for the child;
 - (4) a representative of the school district or school board;
- AND
- (5) someone who can interpret evaluation results.

There can be more members, including an advocate who attends with the parent(s) and the child when appropriate. But these 5 must be at the meeting.

Can an IEP team member be excused?

An attendance sheet is usually circulated so members can be identified by their role on the IEP Team. Members

THING 2

Parental Consent (Evaluations)

There are many instances where IDEA discusses parental consent (eligibility, placement, services). This Thing will focus on parental consent for an initial evaluation and reevaluations.

Initial Evaluation

Schools must obtain "informed parental consent" before an evaluation can begin. ^{fn1} The school must make reasonable efforts to get the parents' permission.

^{fn2} Typically this is done using a "Permission to Evaluate" form or something similar.

If a parent will not consent for an initial evaluation or if the parent fails to respond to the request, the school may pursue the initial evaluation by filing a Due Process Complaint unless state law prohibits it. ^{fn3} If the school fails to evaluate, it could be in violation of [Child Find](#).

Reevaluations

A school must follow the same steps for a reevaluation as an initial evaluation to get parental consent. ^{fn4} However, if the parent refuses to consent to a reevaluation, the school does not violate IDEA if it declines to pursue such reevaluation through due process. The risk here is on the parents and the child because without a reevaluation, the child may not receive appropriate education or services.

may be excused or absent if the parents so agree in writing because the member's area of curriculum is not being modified or if the parents and the school district agree in writing that the member can submit his/her input to the IEP process in writing. ^{fn2}

In a future newsletter, we'll discuss the Notice required for IEP meetings. In the meantime, our book [SchoolKidsLawyer's Step-By-Step Guide to Special Education Law](#) gives you all the details about IEP meetings and more.

[fn1 20 USC §1414\(d\)\(1\)\(B\); 34 CFR §300.321\(a\).](#)

[fn2 20 USC §1414\(d\)\(1\)\(C\); 34 CFR §300.321\(e\).](#)

For more on parental consent in evaluations and other IDEA issues, consider getting our book [SchoolKidsLawyer's Step-By-Step Guide to Special Education Law](#) which covers this topic and so much more.

[fn1 20 USC §1414\(a\)\(1\)\(D\)\(i\)\(I\); 34 CFR §300.300\(a\)\(1\)\(i\).](#)

[fn2 20 USC §1414\(a\)\(1\)\(D\)\(i\)\(II\); 34 CFR §300.300\(a\)\(1\)\(iii\).](#)

[fn3 20 USC §1414\(a\)\(1\)\(D\)\(ii\)\(I\); 34 CFR §300.300\(a\)\(3\).](#)

[fn4 20 USC §1414\(c\)\(3\); 34 CFR §300.300\(c\)\(1\)\(i\).](#)

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