

Introduction

Many parents want to advocate for their child but hold back. If you want to advocate or need to advocate or believe you should advocate for your child but have excuses or reasons why you cannot, this book is for you. We will help you attack obstacles and learn the skills you need to be an effective advocate for your child.

From Emotions to Advocacy

As you read this book, you will experience an array of emotions – from fear, sadness, and anger to excitement, relief, and hope. You will make mental lists of things to do. Write your ideas down on a sheet of paper. Tuck your list into this book and use it as a bookmark. As you learn, your ideas and priorities will change.

You may be tempted to put this book aside and act on your ideas. Try to resist this urge. You have not yet learned what you need to know.

Our advocacy program teaches information and skills, step by step. When you know the information and skills you need to learn, you can make good use of your time. As you complete each step, you will acquire information and polish skills that you will use later.

Skim through the book and the Appendices. When you understand the program, you will know where to focus your energy. You will not allow urgent issues take precedence over important issues.

In the beginning, the process of advocating for your special needs child will feel overwhelming. This is normal. If you follow this program, you will learn how to organize, plan, and use your emotions to become an effective advocate for your child. You will not regret your journey from emotions to advocacy. Because of you, your child's life will change for the better.

Section One

Getting Started

Section One is “Getting Started.” In Chapter 1, you learn that an advocate speaks, pleads, and argues on behalf of another person. We describe different kinds of advocates for children with disabilities and explain why parents are natural advocates for their children. You learn that advocates gather information, learn the rules of the game, plan and prepare, keep written records, identify problems, and propose solutions. We provide you with a list of supplies you need to get started.

In Chapter 2, you learn that a master plan helps you stay focused, anticipate problems, and prepare for the future. We describe the components of a master plan, including a vision statement, mission statement, goals, strategies, and timelines. You learn how to find and work with independent evaluators and educational consultants. If you are like most parents, you need information and support. We recommend that you join a parent group. Other parents will teach you the rules of the game, help you prepare for meetings, and provide emotional support.

Chapter 3 focuses on the parent as project manager. Project managers organize, plan, monitor progress, anticipate problems, and keep the team focused. Your child’s special education is a long-term project. As the parent, you are the logical person to step into the role of special education project manager. We describe the most common reasons why projects fail, and explain the need to make plans, define goals, organize information, and build relationships. You learn about the skills, information and attitude you need to act as your child’s special education project manager.

2 Creating Your Master Plan

“Failing to prepare is preparing to fail.” —John Wooden, UCLA basketball coach

In this chapter, you will learn about planning. We explain how a master plan helps you focus, anticipate problems, and prepare for the future. We describe the five components of a master plan. We discuss how to find and use private sector evaluators and educational consultants. You will learn about the benefits of joining a parent support group or advocacy group.

The Need to Plan

What do you want your child to achieve this year? What are your long-range goals for your child? What do you want your child to be able to do when he or she leaves the public school system? What steps do you need to take to help your child meet these goals?

What are your child’s strengths and weaknesses? How does your child’s disability affect his or her ability to learn? You need to plan for your child’s future.

Can you imagine building a house without a blueprint? You do not know where to situate the house, what types of materials to use, or when to schedule work by subcontractors.

You do not know how large the house will be, how many rooms it will have, or what it will cost to build. You are not aware of obstacles you may encounter, legal requirements, contracts, or permits. Is it reasonable to think that you will figure this out as you go along?

Can you imagine starting a business without a business plan? You have not decided what products you will sell, how you will market your products, or how to fill orders. You do not know what services you should offer.

You have not done research into your market or your competition. You do not know what start-up expenses to anticipate, how much your business will earn, or when you can expect to break even. You do not know about obstacles, legal require-

3 The Parent as Project Manager

“A good education is the next best thing to a pushy mother.” —Charles Schulz, cartoonist

In the last chapter, you learned that your child’s special education is a long-term project and that you need a master plan. In this chapter, you will learn about project managers who organize, plan, monitor progress, anticipate problems, and keep the team focused. As your child’s parent and advocate, you are the logical candidate for this job. We describe the attitude, knowledge, and skills you need to act as your child’s special education project manager.

Contractors and Project Managers

If you build a house, you may have a general contractor manage the project. Contractors manage schedules, deal with people, anticipate problems, and ensure that jobs are done. Contractors are project managers.

In the business world, project managers plan, organize, monitor progress, and ensure that projects are completed. Project managers remove obstacles and resolve conflicts between people. On long, complicated projects, project managers are invaluable.

The Special Education Project Manager

As the parent of a child with a disability, you have learned that you need to make long-range plans for your child. Schools do not make long-term plans for students. Although your child may have a case manager, this individual is not responsible for your child’s education after your child leaves the public school system. If your child has an Individualized Educational Program (IEP), the IEP addresses your child’s needs for one year or less.

You are the constant factor in your child’s life. You represent your child’s interests. If your child does not receive an appropriate education and master the skills necessary to be an independent, self-sufficient member of the community, you will deal with the outcome.

Section Two

Advocacy 101

In the first section of *Wrightslaw: From Emotions to Advocacy—The Special Education Survival Guide*, you learned advocacy basics, the need to create master plan for your child’s special education, and the role of the special education project manager. You are ready to move on to Advocacy 101.

Chapter 4 is “Learning the Rules of the Game.” You will learn about gatekeepers, special education teams, and one-size-fits-all (OSFA) programs. When you learn the rules of the game, you will be a more effective advocate and negotiator for your child.

Chapter 5 will teach you about “Obstacles to Success.” School obstacles include myths, rules, and school culture. Lack of information, isolation, and emotions are obstacles for parents. You will learn about personality styles and how to deal with difficult people. When you recognize obstacles, you can take steps to minimize or prevent problems.

Chapter 6 is “Creating and Resolving Parent-School Conflicts.” When you understand the real reasons for conflict, you will understand why parent-school conflict is normal, predictable, and inevitable. We describe the most common reasons for conflict and recommend strategies you can use to resolve problems. When you use these strategies, you are more likely to resolve your problem without damaging your relationship with the school.

Chapter 7 is “Emergency, Crisis, Help!” If you are like many parents, emotions are your Achilles heel. In this chapter, you will learn how problems can erupt into crises. We explain common pitfalls and describe the steps parents should take in a crisis. If you use the short-term and long-term strategies in this chapter, you will improve your odds for a good outcome.

5 Obstacles to Success

“Nothing in the world is more dangerous than sincere ignorance and conscientious stupidity.”
—Martin Luther King, civil rights activist

In this chapter, we describe obstacles you may encounter as you advocate for your child. When you recognize obstacles, you can take steps to prevent problems. You will learn about school obstacles, including inaccurate information, myths, and school culture. We will describe common parent obstacles including isolation, lack of information, and emotions.

You will learn to recognize personality styles, from Pit Bulls to Wet Blankets, and strategies you can use to deal with difficult people. We describe emotional traps you need to avoid. This chapter ends with strategies to help you build a working relationship with school personnel.

Obstacles to Advocacy

When you advocate for your child, common obstacles include inaccurate information and myths about how children learn. You are likely to get conflicting answers to your questions.

Inaccurate Information

Never assume that legal advice or information you receive from school personnel is accurate. In most cases, school people who offer legal advice have not read the law. Their advice is based on information they received from sources within the school system.

Here are a few examples of inaccurate information and bad advice that parents and teachers receive.

From parents:

“I was told my child is not eligible for services because he is passing.”

“My child is in fifth grade and can’t read. The IEP team will not include a goal about teaching my child to read. They said IEP goals must relate to the curriculum.”

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Resolving Parent-School Conflict

"If you only have a hammer, you see every problem as a nail." —Abraham Maslow, psychologist

In this chapter, you will learn why conflict between parents and schools is normal and inevitable. We will discuss the impact that beliefs, perceptions, and interests have on conflict and identify six issues that increase parent-school conflict. You will learn about the high cost of conflict, including loss of trust, damaged relationships, and emotional and financial stress.

You will learn that your goal is to build a healthy working relationship with the school. If you build a working relationship with the school, it will be easier to negotiate for special education services and supports. This does not mean you will never have conflict!

The Nature of Parent-School Conflict

"I am so frustrated! The IEP team did not meet with us in good faith. The team members did not read the new private sector evaluations on our son. How can an IEP team make recommendations about a child's special education when they do not read the evaluations about the child?"

Conflict between parents and schools is not new. For 150 years, public schools decided who could attend school and who had to stay home. During these years, the schoolhouse doors were closed to many children with disabilities.

When Congress passed Public Law 94-142 in 1975, they knew about the tradition of excluding children with disabilities from school. For the special education law to work, this tradition had to end. Congress added procedural safeguards to the law. The purpose of procedural safeguards is to protect the rights of children and the interests of their parents.



You will learn about procedural safeguards in Section 4.

7 Emergency, Crisis, Help!

"In Chinese, the word crisis is composed of two characters. One represents danger and the other represents opportunity." —John F. Kennedy, President

In the last chapter, you learned that parent-school conflict is normal, predictable and inevitable. In this chapter, you will learn how to manage a crisis. We will describe typical parent-school crises that cause parents to seek outside help. You will learn that the crisis has two sides: danger and opportunity. We will describe how to avoid common pitfalls and will provide strategies you can use to weather a crisis.

Help! Events That Trigger Crises

Here are common events that trigger crises and requests for help from parents. The school:

- Placed the child in a less desirable program, despite objections by the parents;
- Refused to change the child's program and placement, despite recommendations from a private sector professional that the program is not appropriate;
- Refused to consider or include private sector test results and recommendations in the child's IEP;
- Refused to provide accommodations and modifications so the child failed high-stakes tests;
- Decided the child is not learning disabled but is emotionally disturbed or mentally retarded, and unilaterally changed the child's label and placement;
- Decided the child is not emotionally disturbed, but has a conduct disorder and is not eligible for special education services;
- Decided the child is not mentally retarded, but is a slow learner and is not eligible for special education services;
- Caused the child to be arrested at school and suspended or expelled the child for behavior that is related to the child's disability;
- Sent the child home because they do not have an appropriate program and do not want the child in school;

Section Three

The Parent as Expert

As a parent, you negotiate with the school on your child's behalf. To be an effective negotiator, you need to be an expert about your child. You need to know about:

- Your child's disability
- Your child's educational needs
- Your child's educational progress

In Chapter 8, "Evaluations and Your Child's Disability," you will learn about comprehensive evaluations. We explain the limitations of testing by the school. We provide strategies you can use to learn about your child's disability and effective educational practices.

Chapter 9 is "The File: Do It Right!" In this chapter, you will learn how to organize your child's file. The process of organizing your child's file will help you understand your child's disability and educational history. When your child's file is organized, you will be prepared for the next school meeting.

In Chapter 10, "Understanding Tests and Measurements 101," you will learn about the normal distribution of data and how to use the bell curve to measure educational progress. In this chapter, you will learn about percentile ranks and standard scores, composite scores, and subtest scatter.

Chapter 11, "Understanding Tests and Measurements 102," will teach you how to use pre- and post-tests to measure your child's progress. You will learn about norm referenced and criterion referenced tests, standard deviations, and standard scores. You will learn how to convert standard scores into percentile ranks, and percentile ranks into standard scores. When you analyze your child's test scores and understand what the scores mean, you will be able to develop an appropriate program for your child.

If the school develops an inadequate IEP for your child, your child will not receive an appropriate education. Chapter 12 teaches you about SMART IEPs that are specific, measurable, use action words, are realistic, and time-limited. You will learn how to use present levels of performance to write measurable goals and objectives about what your child will learn and be able to do.

9 The File: Do It Right!

“Do the hard jobs first. The easy jobs will take care of themselves.”

—Dale Carnegie, motivational speaker

As the parent of a child with a disability, you know the special education system generates mountains of paper. Some information is important so you are afraid to throw anything away. The mountain of paper grows higher every year. What do you do with it? How do you organize this information?

You need a simple, foolproof document management system. In this chapter, you will learn how to organize your child’s file. After you organize the information about your child into a file, you will have a clearer understanding of your child’s disability and educational needs.

Document Management System

Think about the last school meeting. Did the IEP team members have a complete copy of your child’s file? Did you have a complete copy of your child’s file? How can the IEP team make decisions about your child’s special education program if they do not have complete, accurate information about your child?

Schools keep records in different places. Information and reports are misplaced. When you organize your child’s file, you will have all the information about your child in one place. With our document management system, you can track your child’s educational history. When you use this parent-tested system, you can quickly locate any document in your child’s file.

When you take your organized file to the next school meeting, you will understand the power of getting organized. You will gain a sense of control.

Gather Information About Your Child

Follow these steps to get information about your child.

10 Tests and Measurements 101

“If something exists, it exists in some amount. If it exists in some amount, it is capable of being measured.” —Descartes, philosopher

To be a successful advocate, you must learn about tests and measurements—statistics. Statistics allow you to measure your child’s progress or lack of progress (regression) using numbers.

In this chapter, you will learn how to use statistics to measure change. You will learn about the bell curve and how to use the bell curve to measure educational progress. You will learn about percentile ranks and standard scores, composite scores, and subtest scatter.

Mike

Assume you have an eleven-year-old child who is in the sixth grade. In third grade, Mike was found eligible for special education services as a child with a specific learning disability. He has not made much progress in reading, spelling, or writing since he entered special education three years ago. Mike is angry and depressed and says, “I hate school.”

You are afraid. What if Mike never masters the basic academic skills? What kind of future will he have?

At the next IEP meeting, you share your concerns about Mike’s lack of progress. You want the school to provide a different program. The IEP team disagrees. One member says Mike is getting all the help he needs. Another member says your expectations are too high. The psychologist says if you do not accept Mike’s limitations, you will damage him.

The IEP team offers accommodations and modifications for his special education program. They want to reduce his assignments and give him “talking books.” They do not propose to teach Mike to read, write, spell, and do math. You know what is happening. The IEP team is lowering the bar.

What can you do? How can you get the IEP team to listen? How can you persuade the IEP team to develop a different educational program for Mike? You need to learn what Mike’s test scores mean and how to chart these scores.

11 Tests and Measurements 102

“Underlying all assessments are a respect for children and their families, and a desire to help children. A thorough assessment should allow us to learn something about the child that we could not learn from simply talking to others about the child, observing the child, or reviewing the child's records.” —Jerome Sattler, psychologist

In this chapter, you will learn about composite scores and how to use pre- and post-tests to measure progress. You will learn about norm-referenced and criterion-referenced tests, standard deviations, and standard scores. You will learn how to convert standard scores into percentile ranks, and how to convert percentile ranks into standard scores.

You will learn what the subtests of the Wechsler Intelligence Test for Children measure. You will learn how to chart out test scores, how to use a computer to create progress and regression graphs, and how to incorporate objective scores in your child's IEP

Katie

Katie is a fourteen-year old ninth grader who is failing several subjects. Katie is angry and sullen, and wants to quit school. Katie's desperate parents take her to a child psychologist. Before the psychologist diagnoses Katie's problems and develops a treatment plan, she administers a complete comprehensive psychological and educational testing battery to Katie.

When the psychologist meets with Katie and her parents to discuss the evaluation results, she explains that Katie scored two standard deviations above the mean on the Similarities subtest of the Wechsler Intelligence Test for Children, Third Edition (WISC-III). She says Katie scored two and a half “standard deviations” below the mean on the spontaneous writing sample of the Test of Written Language, Third Edition (TOWL-III).

What do these test scores mean? Do they explain Katie's academic problems? Do they account for her moodiness and dislike of school?

12 SMART IEPs

"If you're not sure where you're going, you're liable to end up someplace else. If you don't know where you're going, the best made maps won't help you get there."

—Robert Mager, psychologist, writer, educator

If you are like many parents, you feel anxious and insecure at IEP meetings. What do you know? What can you offer? What should you do?

Some parents believe that if they are not educators, they have nothing of value to offer in planning their child's educational program. Other parents realize that their child's IEP is not appropriate but do not know how to resolve the problem. Diane belongs to this group. She told us:

I do not think my son's IEP is appropriate. The only goal is 'Commitment to academic success.' I imagine 'Commitment to academic success' is appropriate for all students. If 'Commitment to academic success' is not appropriate, what should I propose?

How are measurable goals, objectives, and benchmarks defined? Can you give me an example of a well-written IEP? (Diane, parent of 15-year-old special education student)

Diane represents countless parents who are confused about IEP goals and objectives. If you are the parent of a child with a disability, you are probably confused too.

How do you write IEP goals and objectives? Do you agree with Diane when she says, "Commitment to academic success is not an appropriate goal?"

Learning About SMART IEPs

The term SMART IEPs“ describes IEPs that are specific, measurable, use action words, are realistic and relevant, and time-limited.

- S Specific
- M Measurable
- A Use Action Words
- R Realistic and relevant
- T Time-limited

Let's examine each of these concepts.

Section Four

Special Education Law

“So you want to convince others of the justice of your case? Research it, learn it, live it, prepare it. Prepare your argument. Write out your thoughts.”

– Gerry Spence, trial lawyer, author

As the parent of a child with a disability, you need to learn how to do legal research. If the school says, “The law says we cannot do what you ask us to do,” you need to research the issue independently. After you read the statute, the regulation, and a case or two, you will know what the law says the school can and should do. Knowledge gives you power.

To understand a legal issue, you should study three types of law:

- Statutory law
- Regulatory law
- Judicial decisions, also known as case law

Read the statute first. Next, read the federal regulation and your state regulation. The regulation usually expands on the statute. Then, read cases that interpret your issue. After you read the statute, regulations, and cases, you will understand the law about your issue. Do not rely on legal advice provided by school personnel or articles written by others. In this book, you will read the law. In the beginning, this is more difficult than having the law interpreted for you. As you read, the law will begin to fit together in your mind. When you know how the law is organized, you can find sections or regulations that are relevant to your situation.

Each chapter in this Section begins with a short introduction, followed by selected portions of the statute. Following the statute is a Wrightslaw discussion of the law that

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IDEA– Section 1400: Findings and Purposes

“If the children are untaught, their ignorance and vices will in future life cost us much dearer in their consequences than it would have done in their correction by a good education.” —Thomas Jefferson

This section of the Individuals with Disabilities Education Act describes Congressional findings about educating children with disabilities and the purposes of the special education law. If you are advocating for a child with a disability, you should read these sections several times.

20 U.S.C. § 1400 Congressional Findings and Purpose

(c) Findings.

- (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.
- (2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142)
 - (A) the special educational needs of children with disabilities were not being fully met;
 - (B) more than one half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;
 - (C) 1,000,000 of children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

15 | IDEA–Section 1401: Definitions

“Loyalty to a petrified opinion never broke a chain or freed a human soul.” – Mark Twain, author

In this chapter, you will learn the legal definitions of nine (out of thirty) terms from the special education statute. This chapter will help you understand, apply, and use these terms as used in the statute.

20 U.S.C. § 1401 Definitions

Except as otherwise provided, as used in this Act:

(1) **Assistive Technology Device.** 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. Such term includes:

- (A) the evaluation of the needs of such child, including a functional evaluation of the child in the child’s customary environment;
- (B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;
- (C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (E) training or technical assistance for such child, or, where appropriate, the family of such child; and

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IDEA–Section 1412: LRE, ESY, Child Find, Private Placement, Assessments

“Most schools function – with stunning efficiency – to stop real learning.”

–George Leonard, author

To be eligible for federal funds, the states must provide the U. S. Department of Education with assurances that they have policies and procedures in effect to ensure that all children with disabilities receive a free appropriate public education. Although Extended School Year (ESY) is not cited in an IDEA statute, the special education regulations that interpret Section 1412 clarify ESY. This chapter includes legal requirements about:

- Expelled students entitlement to FAPE
- Extended school year (ESY)
- Requirements about “child find” systems
- Least restrictive environment
- Private school placements
- State and district assessments

20 U.S.C. § 1412 State Eligibility

(a) **In general.** A State is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:

(1) **Free Appropriate Public Education.**

(A) **In general.**

A free appropriate public education is available to all children with disabilities residing in the State **between the ages of 3 and 21, inclusive, including** children with disabilities who have been suspended or expelled from school.

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IDEA–Section 1414: Evaluation, Eligibility, IEPs, and Placement

“The greatest danger for most of us is not that we aim too high and we miss, but that we aim too low and we reach it.” —Author unknown

In this chapter, you will learn about evaluations, re-evaluations, eligibility, Individualized Educational Programs (IEPs), IEP teams, and placement decisions.

A Wrightslaw discussion of evaluations and eligibility follows the statute about evaluations. A Wrightslaw discussion of IEPs, IEP teams, and placement decisions follow the statute about IEPs. Except for the “Purposes” section of the law, Section 1414(d) is the most important area of law for you to read and understand. Evaluations are used to determine your child’s eligibility for services and termination of services. Data from evaluations are used in the present levels of performance in your child’s IEPs. There are two meetings described in the law, eligibility meetings and IEP meetings. In some areas of the country, one or both of these two meetings are called an ARD or MDT meeting or report. The initials usually describe “Assessment/Admission, Review, Discharge” and “Multi-Disciplinary Team” meetings and report. They are simply either the eligibility or IEP meetings, the reports, or both, dependent upon the terminology in your state.

Appendix A to the federal regulations uses a frequently asked questions (FAQs) format to clarify the law about IEPs, transition, high stakes testing, and other issues. (Appendix A to the Regulations is Appendix A to this book.)

20 U.S.C. § 1414(a) Evaluations and Reevaluations_____

(1) Initial Evaluations.

(A) In general.

A State educational agency, other State agency, or local educational agency shall

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IDEA–Section 1415: Procedural Safeguards, Due Process, Discipline, etc.

“. . . whether the IEP and the FAPE requirements were put there out of mistrust of the parents, or out of mistrust of school authorities. It seems to me they were put there to make sure that the school authorities did not give the disabled child second-rate treatment. ”

– Transcript of Oral Argument, statement by Supreme Court Justice,
Florence County School District IV. v. Shannon Carter (October 6, 1993)

In Section 1415, you will learn about prior written notice, procedural safeguards notice, mediation, due process hearings, statutes of limitation, appeals, discipline, and age of majority.

Legal disputes are usually analyzed in terms of **substance** and **procedure**. In criminal law, was the confession voluntary or was the confession made after the defendant was held incommunicado and not allowed to talk with an attorney? (Procedural issue.) Regardless of whether there was a confession, did the defendant commit the crime? (Substantive issue.) Do fingerprint evidence, eyewitness testimony, and DNA evidence establish guilt? (Substantive issue.) Is the defendant a juvenile or adult? (Procedural issue.)

If the school convenes an IEP meeting and deliberately excludes the child’s parent, does this invalidate the IEP? (Procedural issue.) Is an IEP that offers four months of gain in reading skills after one year of special education invalid? (Substance, see *Carter*.) In most states, judges have held that procedural breaches must cause an actual loss of educational opportunity to the child before the procedural breach is legally sufficient to affect the outcome of the case.

IDEA is like other laws, with rules of procedure and issues that relate to substance. In some factual scenarios, these two issues merge. Substantive issues usually involve evaluations, eligibility and the child’s IEP. Procedural issues focus on notice, timelines, the right to review records, remedies if the school district fails to obey the law, mediation, due process, discipline, and resort to courts.

Unless your child is labeled with an emotional disturbance, behavior disorder, or ADD/ADHD, is facing suspension or expulsion, or is at risk for suspension, you are advised to skip §1415(k) about “Placement in Alternative Educational Setting.” This

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Section 504 of The Rehabilitation Act of 1973 and the Americans with Disabilities Act

Morality cannot be legislated but behavior can be regulated. Judicial decrees may not change the heart, but they can restrain the heartless. — Martin Luther King, civil rights activist

In this chapter, you will learn about Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, as contrasted with the Individuals with Disabilities Education Act (IDEA).

The key portion of **Section 504 of the Rehabilitation Act** at 29 U. S. C. § 794 states:

Section 794. Nondiscrimination under Federal grants and programs

(a) Promulgation of nondiscriminatory rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in Sec. 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service . . .

The **Americans with Disabilities Act**, as it applies to public entities, is identical. Subchapter II, Part A, of the Americans with Disabilities Act at 42 U. S. C. § 12132 and § 12133 states:

Section 12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

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Family Educational Rights and Privacy Act

“The great dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.” – Justice Louis D. Brandeis, Jurist

In this chapter, you will learn about the Family Educational Rights and Privacy Act (FERPA). FERPA deals with privacy and confidentiality, parent access to educational records, parent amendment of records, and destruction of records. The purpose of the FERPA statute is to protect the privacy of parents and students.

FERPA applies to all agencies and institutions that receive federal funds, including elementary and secondary schools, colleges, and universities. The statute is in the United States Code at 20 U.S.C.1232. The regulations are in the Code of Federal Regulations at 34 C.F.R. Part 99.



Wrightslaw: Special Education Law, pages 283-287, 34 C.F.R. Part 99, pages 289-299.

FERPA

Educational Records

Educational records include “all instructional materials, including teacher’s manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.”

Schools must disclose test materials, including test protocols and answer sheets. The Office for Civil Rights has determined that the test protocols used by a psychologist to prepare a report are educational records and must be produced to the parents. Destruction of records violates the parents’ rights of access.

The transcript of a hearing is an educational record for purposes of Section 504.

Section Five

Tactics and Strategies

In this section, you will learn how to use tactics and strategies to anticipate problems, negotiate for services, and avoid crises. If you have a dispute with the school, tactics and strategies will help you influence the outcome.

Chapter 21 is “The Rules of Adverse Assumptions.” We describe the assumptions you must make and how preparing for conflict helps you avoid conflict. You will learn about proof and evidence and how to present your case.

In Chapter 22, you learn about documentation. You will learn how to use logs, calendars, and journals to create paper trails. When you train yourself to write things down, you are taking steps to protect your child’s interests.

Chapter 23 is about writing letters to the school. We describe the five purposes of letters and strategies you can use to ensure that your letters accomplish their purpose. You will learn editing and presentation techniques to enhance the effectiveness of your letters. This chapter includes frequently asked questions and “nuts and bolts” of business letters.

In Chapter 24, you will learn about writing the “Letter to the Stranger.” In this chapter, you will discover the identity of the mysterious Stranger and what you want to accomplish when you write to him or her. You will learn about the blame approach and the story-telling approach, angry letters and the sympathy factor, persuasion, and the importance of making a good impression.

Chapter 25 is “Preparing for Meetings: Taking Control.” In this chapter, you will learn how preparing for meetings enables you to control the process. You will learn how to use meeting worksheets and parent agendas to clarify issues, make requests, describe problems, and offer solutions.

Chapter 26 is “Meeting Strategies: Maintaining Control.” In this chapter, we teach you how to use a simple problem resolution worksheet to keep track of issues and

22 Creating Paper Trails

"If it was not written down, it was not said. If it was not written down, it did not happen."

—Pete Wright

In the last chapter, you learned that if you have a dispute with the school, you must have independent evidence that supports your position. In this chapter, you will learn how to use logs, calendars, and journals to create your paper trail. When you write things down when they happen, you are taking steps to protect your child's interests. In this chapter, you show you how to document problems and handle telephone calls.

Why Document?

Good records are essential to effective advocacy. When you deal with a bureaucracy like the Internal Revenue Service or your state tax office, you understand that you need to keep detailed records. Many parents do not realize that their school districts are bureaucracies.

Keep a log of your contacts with the school. In addition to meetings, your log should include telephone calls and messages, conversations, and correspondence between you and the school. (You will learn how to write effective letters in Chapter 23).

Keep copies of all letters, reports, and consent forms.

Train yourself to write things down! If you have a dispute with the school, your contact log is independent evidence that supports your memory.

Documentation that supports your position is a key to resolving disputes. Your tools are simple:

- Logs
- Calendars
- Journals

23

How to Write Good Evidence Letters

“There are no secrets to success. It is the result of preparation, hard work, and learning from failure.”
— Colin Powell, soldier and statesman

In this chapter, you will learn how to write effective letters to the school. You will learn about the five purposes of letters and how to use the letter’s purpose to guide you. You will learn strategies you can use to ensure that your letters accomplish their purpose. We provide advice about how to write business letters, letter-writing tips, and sample letters that you can adapt to your circumstances. As you read this chapter, refer to the sample letters in Appendix I.

Why You Write Letters

You write letters to:

- Request information
- Request action
- Provide information or describe an event
- Decline a request
- Express appreciation

You also use letters to build relationships, identify and solve problems, clarify decisions that are made or not made, and motivate people to take action.

When you write a letter, be guided by your purpose. What is your purpose? What do you want your letter to accomplish?

Focus on one issue or two issues at most. Do not use one letter to accomplish several purposes. Long letters about several issues are confusing. If the reader is confused, your letter will not accomplish its purpose. Let’s look at the five purposes for writing letters.

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Writing the “Letter to the Stranger”

“If you would persuade, you must appeal to interest rather than intellect.”

– Benjamin Franklin, inventor

In this chapter, you will learn about two approaches to letter writing – the Blame Approach and the Story-Telling Approach. You will learn about the Sympathy Factor and why you must not write angry letters to the school. Your goal is to use the Story-Telling Approach to write persuasive letters.

The Blame Approach

A father wrote this letter after an IEP meeting. This father is a businessman who writes letters in his work. This letter was a trial exhibit and an issue in his child’s case. When you read his letter, pay attention to your reactions.

Dear Dr. Smith:

You asked that I advise you about my objections to the IEP that your staff of “professional educators” wrote for my daughter. Despite my own lack of training, I can say that the IEP developed by your staff was preposterous. Let me share a few observations with you.

Your staff FAILED to include anyone on the IEP team who thoroughly understands my daughter’s background.

Your staff FAILED to perform an observation on my daughter before they developed the IEP.

Your staff FAILED to include information from the most recent testing by the private evaluator and relied on out-dated testing that is nearly two years old.

Your staff FAILED to target her specific needs and unique abilities.

Your staff FAILED to include any objective criteria to measure her progress or lack of progress.

25 Preparing for Meetings: Taking Control

"If you're sure you can't, you won't. If you think you can, you might. If you know you can, you will." — Fable

If you are like most parents, you feel confused, frustrated and intimidated at school meetings. How can you get the school to answer your questions? How can you get the school to respond to your requests? How can you get the school to provide the services and supports your child needs? What is your role?

As a parent, you negotiate with the school for services on your child's behalf. In this chapter, you will learn about negotiating and problem solving. You will learn about organizing the file, knowing what you want, anticipating obstacles, and presenting your requests.

The pre-meeting worksheet will help you clarify concerns, make requests, and anticipate problems. You will learn how to use a parent agenda to express concerns, describe problems, and make requests. If your relationship with the school is strained or damaged, these steps will help you mend fences and build healthy working relationships with school personnel.

You are a Negotiator

If you are like many parents, you did not realize that you negotiate with the school for special education services and supports. When you attend meetings about your child's special education program, you are representing your child's interests.

When you understand that you are negotiating, the process begins to make sense. Think about other situations where you negotiate. You may have more experience as a negotiator than you realize.

You negotiate with co-workers about work schedules. You negotiate with your employer about your salary. You negotiate with family members about housework and the budget. When you purchase a car or house, you negotiate with strangers. When you negotiate with the school, you have an advantage—you can prepare.

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Meeting Strategies: Maintaining Control

“Winning is getting what we want, which also means helping others get what they want!”

— Gerry Spence, Trial Lawyer and Author

You have learned that preparation and planning are the keys to successful advocacy. In the last chapter, you learned how to use the pre-meeting worksheet to clarify issues and identify problems and the parent agenda to present problems, offer solutions and make requests. In this chapter, you will learn strategies to control the outcome of meetings, including the problem resolution worksheet and the post-meeting thank you note.

School Meeting Anxiety

This is how one father, a successful salesman, describes school meetings:

I always feel anxious when I go to the school for a meeting. I start to feel anxious before I get there. By the time I drive into the parking lot, my stomach is in knots. I feel intimidated. When they ask me what I think, I do not know what to say.

If you have a child in special education, you know about school meeting anxiety. Many factors contribute to school meeting anxiety, including your life experiences, fears about your child, uncertainty about your role, and your interpersonal style.

Your personal experiences will affect your feelings about school meetings. When you walk into your child’s school, you are transported back to your own earlier years in school. For many parents, memories of school are painful and unpleasant. If you had school problems, school meetings may bring back old feelings of guilt, shame, and anxiety.

Your reaction to school meetings is also influenced by your interpersonal style. If you are a conflict-avoider, your motto is “peace at any price.” You may keep your concerns about your child’s education to yourself until you cannot avoid conflict any longer. If you are eager to please, your desire to be liked may cause you to agree to

27 | In Summation

“Revenge is the bastard child of justice.

If we or our argument are perceived as a threat, we will never be heard.”

– Gerry Spence, trial lawyer and writer

In this final chapter of *From Emotions to Advocacy*, we will offer advice and issue a warning about pitfalls to avoid. First, we will summarize the components of effective advocacy.

Learn about your child’s unique needs. Think about the skills your child must acquire to be an independent, self-sufficient member of society: communication skills, social skills, and reading skills. Ensure that your child acquires these skills.

Learn about researched-based educational methods and “proven methods of teaching and learning for children with disabilities.” (20 U.S.C. 1400(c)(4)). Learn about assistive technology and how technology can help your child master essential skills.

Learn the law so you can find answers to your questions in the statutes, regulations or legal decisions. Do not learn the law so you can threaten or browbeat school personnel.

Get your state special education regulations and *Wrightslaw: Special Education Law*. When you cross-reference these publications, you will understand the relationships between the rules of procedure (as discussed in Section 1415) and substantive issues (as discussed in Sections 1412 and 1414). Because you are familiar with the statute, you will know that the statutes about evaluations are in Section 1414 and that the statutes about IEPs are in Section 1414(d).

But learning the law is less important than learning about evaluations and test results. You cannot be an effective advocate until you understand how to use test scores to measure learning. You learned about standard scores, percentile ranks, standard deviations, and subtest scores. When you look at your child’s test results, you should know if your child is acquiring skills or is falling further behind.

The IEP drives your child’s educational program. You have learned about SMART IEPs that are Specific, Measurable, use Action words, are Realistic and Time Specific. Work with school personnel to develop SMART IEPs that relate to the purposes of the IDEA.