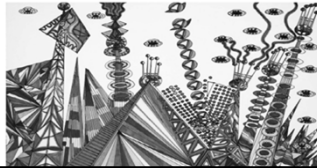


School Advocacy for Parents and Other Advocates NCAS 2018

Kimberlee Candela
Office of Clients' Rights Advocacy
Disability Rights California

OCRA is the Office
of Clients' Rights
Advocacy

Providing free legal information,
advice and representation
to regional center clients.



Office of Clients' Rights Advocacy

- ❖ Serve FNRC clients & families
 - And those applying to become clients
- ❖ No fee/cost
- ❖ Part of Disability Rights California
 - OCRA page
 - Publications
 - See SPED



Overview of Today

- ❖ Special Education/Eligibility
- ❖ IEPs - the Team/Parental Rights
- ❖ Parent Preparation for Meeting
- ❖ Negotiation Principles
- ❖ Assessments
- ❖ Least Restrictive Environment (LRE)
- ❖ How OCRA can help

Codes/Regulations

- ❖ Federal
 - C.F.R.: Code of Federal Regulations
 - U.S.C: United States Code
- ❖ State:
 - Cal. Ed. Code: California Education Code
 - C.C.R.: Code of California Regulations

What is Special Education?

- ❖ A group of services provided to a student who has a disability.
- ❖ Services that support child to be successful; to access FAPE
- ❖ Classroom placement is one component of an overall discussion of options.

FAPE

- ❖ FAPE: each student who has a disability has a right to a Free Appropriate Public Education, designed to meet their unique needs, at public expense
- ❖ IEP Components:
 - Eligibility
 - Assessments/Present Levels of Performance
 - Annual Goals
 - Placement
 - Services/Supports

Eligibility 34 C.F.R. 300.8

- ❖ Qualifying diagnosis (examples):
 - Autism
 - Speech or Language Impairment: SLI
 - Other Health Impairment (OHI)
 - Intellectual disability
- ❖ **and** must "need special education and related services..." 34 C.F.R 300.8

34 CCR 300.8: ASD for SPED

- ❖ "Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction . . . that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences."

Components of Eligibility

- ❖ Eligibility listed on first page of IEP
- ❖ Include all of student's disabilities
 - Want complete info in case child moves schools or programs
- ❖ If school refuses: ask why?
- ❖ Regardless of eligibility: student is entitled to access FAPE
 - So all supports/services needed for student to access FAPE must be provided
 - When asking for services/assessments, couch it on those terms.

When parent calls IEP meeting

- ❖ Can do it when believes team needs to convene
 - Not always necessary - sometimes a smaller team meeting is useful
 - Is necessary for any change to services
- ❖ IEP document protects the student
 - If it's not in writing, it didn't happen
- ❖ IEP request needs to be in writing
 - Two copies: serve one; get the other one dated and time-stamped as received
- ❖ School has 30 days to hold the meeting.
Cal. Ed. Code § 56343.5

IEP Team - Attendance (Slide 1)

- ❖ Required participants:
 - Parents
 - Regular Education Teacher
 - Special Education Teacher
 - Educational Agency Representative
 - People who conducted assessments
 - Representatives from other agencies
 - The student if appropriate
 - Other people that the parent requests

IEP Team - Attendance (Slide 2)

- ❖ Members cannot be excused unless parents agree. 34 C.F.R. 300.321
- ❖ If required members are not present, two choices:
 - Proceed and reconvene later with them
 - OR stop the meeting and reschedule.
34 C.F.R. § 300.345 and CA Ed Code § 56341.5

Parents' Rights to Attend (CEC. § 56341.5) - see handout

- ❖ "Parents or guardians shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend."
- ❖ The individualized education program meeting **shall** be scheduled at a mutually agreed-upon time and place.
- ❖ Parent object in writing to scheduling - use language of law to do so

Parental Prep for IEP (Slide 1)

- ❖ Schedule classroom observation as possible.
 - What's working, what's not?
 - Student getting services/BIP being followed?
 - Questions? Ask teacher/make notes for meeting.
- ❖ Pull out (or get) last year's IEP. Read it.
 - Questions?
 - Services which seem inadequate?
 - Goals - do you think they've been met?
 - Other objective/goals areas that should be added?

Parental Prep for IEP (Slide 2)

- ❖ New assessments? Request and review before meeting. Triennial year?
- ❖ Review any helpful materials such as Disability Rights California publications.
- ❖ Check in with your child. See how they feel about the school year and what changes they wish.
- ❖ Review other materials from past year: disciplinary records, report cards, progress reports, and student work.

Parental Prep for IEP (Slide 3)

- ❖ Prepare a list of the meeting:
 - Concerns/questions
 - Requests/action items:
 - Assessments
 - Communication
 - Additional goals
 - Change in services
- ❖ Support at meeting - invite
- ❖ Recording? 24 hours written notice to school. (Rarely necessary.)
- ❖ (Written) request: accommodation or interpreter

Regional Center families: invite the SC and involve in preparation

- ❖ Service Coordinators can:
 - Provide guidance
 - Provide documents - FNRC records
 - Share law/publications/referrals
 - Meet ahead of time to discuss and prepare list (can be right before IEP)
 - Support your advocacy for your child

Negotiation -- Three "Rs" (+)

- ❖ **Respect**
 - Room (to pivot)
 - (and Reason to do so)
- ❖ **Reputation**
 - Reasonable
- ❖ **Relationship**
 - Repair

Negotiation Principles for IEPs

- ❖ No surprises at IEP
 - Communicate with school ahead of time
 - Listen - how do they see this?
 - What is needed for child - let school think about it
 - Heads' up about difficult issues/emotions
- ❖ Own it: admit, correct, apologize as needed (repair)
- ❖ What's working - compliments as possible
 - No personnel complaints at IEP

Parent Signature

- ❖ Never sign a blank document. At meeting:
 - Do sign "in attendance" but
 - But **don't** "in agreement"
- ❖ When document is ready/translated, review before signing. Sleep on it. Reasonable time to sign.
- ❖ Contact school to correct errors/clear up discrepancies or ambiguities as possible
- ❖ Can sign in partial disagreement. Refer to parental note on that page. Then attach that note. It becomes part of the IEP.

Assessments

- ❖ Are used to determine eligibility and also need for services and supports.
- ❖ Assessments can include standardized tests, observations, records review, input from teachers, parents and student
- ❖ Parental right to those reports.
 - Request before meeting.

FBA

Functional Behavior Assessment

- ❖ Does the student's behavior interview with their or other's learning?
- ❖ If so, then need a behavior goal or BIP
 - Behavior Intervention Plan
- ❖ Consider asking for an FBA
- ❖ For more information see DRC publication: *Positive Behavior Assessment and Planning in Schools: Fact Sheet* (June 2015; #CM60.01)

Occupational Therapy - Sensory Diet

- ❖ OT assessments can be for gross motor, fine motor and sensory diet
- ❖ Info about sensory diets
 - See: childdevelopment.com.au
 - And: sensorysmarts.com

Assessment Timelines (Slide 1)

- ❖ Request assessment in writing or at meeting
 - Keep a copy (date and time stamped)
 - OR make sure it's in IEP notes
- ❖ Written assessment plan:
 - School has 15 days to produce after request (or deny)
 - Parent has 15 days to return signed plan

Assessment Timelines (Slide 2)

- ❖ When district receives signed assessment plan, 60 day clock starts running to conduct the assessment. (CA Ed Code § 56344.)
- ❖ All assessment timelines exclude school holidays in excess of five days.
 - So time stops running over summer and winter break but not likely spring break

Independent Educational Evaluations (IEE)

- ❖ Parent can request district to fund IEE if they disagree with an assessment.
- ❖ District has only two options:
 - **Fund or File (due process)**
- ❖ Respond to request for IEE "without unnecessary delay"
- ❖ If will not fund, must file for hearing.

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Right to LRE, Slide 1 20 U.S.C. 1412(a)(5)(A); see SERR Chapter 7

- ❖ "To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled . . ."

Right to LRE, Slide 2 20 U.S.C. 1412(a)(5)(A); see SERR Chapter 7

- ❖ "... and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

Proposed move to more restrictive placement (~MRP): Discussion

- ❖ Guide discussion.
 - NOT is MRP "better" or "easier"
 - But WHY is it NECESSARY to move or place student in MRP
 - Why won't other supports and services in general ed placement work? Why won't they try them?
- ❖ Placement section: justification
 - Should be detailed and specific. If not, request. What are the needs and why is MRP required to meet those needs?

Proposed move to MRP questions to ask:

- ❖ What supports/services have been tried?
- ❖ If those didn't work, what changes made/tried?
- ❖ Assessments needed? Needs changed?
- ❖ Functional Behavior Assessment (FBA)? Behavior Intervention Plan (BIP)? Changes?
- ❖ Changing classroom: what will it accomplish for this student?

Legal Resources

www.disabilityrightsca.org

- ❖ Office of Clients' Rights Advocacy
 - For FNRC clients: 530-345-4113
 - Kimberlee Candela & Lorie Atamian
 - Other regional centers: see OCRA web page
- ❖ Disability Rights California
 - See website for "publications"
 - Call for intake: 1-800-776-5746

How OCRA Can Help

- ❖ Information and referrals
 - Targeted information including publications and applicable law
- ❖ Counsel and Advice
 - Provide advice; may review records
- ❖ Brief service
 - Ex.: request records; contact to school
- ❖ Evaluation and Assessment
 - Review records and investigate to determine level of service
- ❖ Direct representation
 - Advocacy at a school meeting, including IEP

California Education Code section 56341.5

(a) Each local educational agency convening a meeting of the individualized education program team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each individualized education program meeting or are afforded the opportunity to participate.

(b) Parents or guardians shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend.

(c) The individualized education program meeting shall be scheduled at a mutually agreed-upon time and place. The notice of the meeting under subdivision (b) shall indicate the purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians also shall be informed in the notice of the right, pursuant to Section 300.322(b)(1)(ii) of Title 34 of the Code of Federal Regulations, to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs, and inform the parents of subdivision (i) of Section 56341 relating to the participation of the infants and toddlers with disabilities service coordinator under Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) at the initial individualized education program team meeting for a child previously served under the Subchapter III program.

(d) As part of the participation of an individual with exceptional needs in the development of an individualized education program, as required by federal law, the individual with exceptional needs shall be allowed to provide confidential input to any representative of his or her individualized education program team.

(e) For an individual with exceptional needs, beginning no later than the effective date of the individualized education program in effect when the individual reaches the age of 16 years, or younger if determined appropriate by the individualized education program team, the meeting notice also shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code, and the meeting notice shall indicate that the individual with exceptional needs is invited to attend. If the pupil does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the preferences and interests of the pupil are considered in accordance with Section 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

(f) The local educational agency, to the extent appropriate, with the consent of the parents or individual with exceptional needs who has reached the age of majority, and in accordance with Section 300.321(b)(3) of Title 34 of the Code of Federal Regulations, shall invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(g) Pursuant to Section 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the local educational agency shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls, and consistent with Section 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the local educational agency may agree to use alternative means of meeting participation.

(h) A meeting may be conducted without a parent or guardian in attendance if the local educational agency is unable to convince the parent or guardian that he or she should attend. In this event, the local educational agency shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(i) The local educational agency shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

(j) The local educational agency shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.



Disability
Rights
California

California's protection & advocacy system
Serving Clients of Far Northern Regional Center

Office of Clients' Rights Advocacy

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Toll Free: (800) 390-7032

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OCRA SURVEY

PRESENTER(S) NAME: Kimberlee Candela

TITLE OF TRAINING: School Advocacy for Parents and Other Advocates
at NCAS: Northern California Autism Symposium

DATE OF ACTIVITY/TRAINING: September 29, 2018

NAME OF PARTICIPANT (OPTIONAL): _____

1. Did you learn something from this training? Yes ___ No ___

2. Did the information presented meet your needs? Yes ___ No ___

(Excellent Good Fair Poor)

4 3 2 1

3. How would you rate the quality of the presentation? 4 ___ 3 ___ 2 ___ 1 ___

4. Overall, how would you rate the usefulness of this training/presentation?

4 ___ 3 ___ 2 ___ 1 ___

5. What was MOST useful from today's training?

6. What was the LEAST useful from today's training?

7. Comments/suggestions: