

Special Ed Advocacy: Nine Rules of Thumb

by Robert K. Crabtree

Because the stakes are so high, it is very difficult for parents of children with special educational needs to advocate calmly and objectively for the educational and related services their children need. Nevertheless, calmness, objectivity, and a third quality -- patience for the long haul -- are the parents' most important tools in a complex and often frustrating process. In the course of that process, here are a few rules of thumb I have found to be helpful to parents.

Rule One: Build a Reliable Team Around Your Child

The first step in building a reliable team is to find independent evaluators who can help you understand and advocate for your child. Other members of your support team may include a trained educational advocate who can help you understand the procedural steps and think through strategies as well as attend meetings and help you make your case. (As a general rule, an expert evaluator should not also be your advocate; the skills are different, and an evaluator is more credible if allowed simply to comment as an expert in your child's needs.)

Be sure to find an advocate who has the experience and judgment to help you work cooperatively and effectively with your school system rather than to enter with all guns blazing right from the start. It also is helpful to connect with parents of other children with similar disabilities in and out of your school district -- groups from whom you can receive both emotional and informational support as you advocate.

Rule Two: Learn the Rules

In every state there are written rules and regulations that describe both the substance of a student's rights to educational and related services and the procedures one must use to obtain those services. Read them! Usually they can be obtained from the local school system, the state's department of education, an advocacy group, or a local library. (In addition to regular libraries, there are usually libraries located in courthouses that should have copies of state regulations and laws.) A well-thumbed copy of the special education regulations is a useful tool to have at your side when you attend a TEAM meeting. It signals to school representatives that you're serious and know the ropes.

For children who are too young to be eligible for special education services, parents should look into early intervention programs. Again, there are written rules and regulations with which parents should become familiar. Although appeals procedures in the early intervention system are typically looser than in the special education system, knowing the standards and the available steps is critical to effective advocacy.

Rule Three: Don't Over-Rely on the Rules

Special education regulations contain many detailed requirements: deadlines, notification requirements, rules about who should attend TEAM meetings, who should

evaluate students, and so forth. A strong advocate knows these requirements, but also avoids elevating form over substance. Compliance with the letter of the law is far less important in the long run than serving the educational needs of the child. Typically, Hearing Officers are more interested in the content of an IEP and whether a proposed placement can deliver appropriate services than in punishing school systems for procedural violations that don't seriously affect the quality of the child's program. Bottom line: Be ready to give the school system reasonable leeway on procedural matters while pressing firmly and steadily for quality programs and services.

Caution: while being reasonable about postponements and the like, do make sure that meetings, evaluations and other steps occur early enough in the school year (preferably in the spring of the year before the school year in question) to move the process along toward an acceptable IEP or a hearing to resolve disputes.

Rule Four: Prioritize Your Issues

In any student's life some needs and issues demand more attention than others. Sensible advocacy includes understanding the order of importance of each of your child's needs and which services or elements of a program can be de-emphasized to achieve the greater goal. If you want the school system to pay for an outside placement, are you willing to provide transportation or pay for some additional service not available at the outside placement to settle the conflict? Of course, the answer to these questions depends on the strength of your case, how urgent the needs are, your financial circumstances, and other factors. However, understanding the priorities and being willing to give up something often helps resolve a case and helps preserve the relationship between school system and family.

Rule Five: Share All Information

Parents (and some evaluators) sometimes feel that they should not provide independent evaluations or other information they have obtained at their own expense to school systems. This is usually a mistake. The most common reasons parents give for withholding information:

1. They think that they'll be in a better position to argue for an alternative program if the school system doesn't do a competent job -- a more likely outcome if the school system is not given guidance by the parents' experts.
2. They think the information will reduce their chances of achieving the goal they seek, because it contains different recommendations from what the parents want, or because it contains information that the school system could use to avoid providing services.

As a rule, I recommend that parents share all information as soon as it is available. If a dispute with your school system goes into litigation, the school system will most likely obtain copies of any written information that you withheld earlier through a formal "discovery" process. If a document that was withheld earlier contains information that might have helped the school system write a better IEP, the Hearing Officer will likely rule that the school system be given a chance to alter its program to address the new information. If the document contains information harmful to the parents' position in the case, the damage will be greater because the information was not shared in the normal course. Attempts to put the damaging information into a less harmful context will ring false at this late date.

Sometimes a document contains private family information that the parents don't want to share with school personnel. If the information is not relevant to the child's educational and related needs, perhaps the writer of the document can be persuaded to revise the document removing the information. Otherwise, you have to balance the risks involved in not sharing information with the harm or embarrassment that may be caused in sharing the information. If you decide to give the information, it is a good idea to use a cover letter emphasizing the confidentiality of the document and asking that the information be used only as strictly necessary in the planning and delivery of services to the child.

Rule Six: Document Everything and Keep All Documents

You should document every important communication or event. This means:

1. Follow up an important conversation or meeting with a letter saying, for example: "Thank you for talking/meeting with me today about my son/daughter's needs. I understand you have agreed to [whatever] by [date]. Please let me know right away if my understanding is not accurate."
2. Keep a log (a spiral notebook works well) of all telephone and face-to-face conversations and other key events that say something about your child's needs or service/program options or demonstrate something about the school's response to those needs.
3. Take excellent notes at any key meeting, particularly at TEAM meetings. It is best to have someone with you whose only job is to do this so that neither you nor anyone who needs to play an active role at the meeting will be distracted by having to take notes. Meetings can be tape-recorded, but with the difficulty of transcribing tapes, notes are usually the best record.
4. Be sure that you have everything the school system has. Periodically examine your child's student records kept by the school system and obtain copies of any documents you don't already have.
5. Keep all documents in chronological order. Don't write notes on them, since they may be used as exhibits at a due process hearing someday. Use stick-on notes if you want to highlight something.

Rule Seven: Understand Least Restrictive Environment

Special education law requires that services be delivered in the least restrictive appropriate environment, meaning generally the setting which is closest to the regular education program in which your child can progress effectively with or without added supports and resources. Most often this means that you have to exhaust the reasonable possibilities for programs and services within the local community before you have a reasonable chance to argue for any other alternative. However, if you have very strong advice based on an expert's personal knowledge of the school system's program that it would be ineffective or worse, you can sometimes risk not trying the program before proceeding to litigation.

Rule Eight: Don't Confuse Personality Conflicts with Real Issues

A dispute between parents and school system employees over what services a child needs can bring out the worst in people. However, a parent cannot afford to be distracted by the bad manners of a teacher or administrator, nor to allow his or her own anger to erupt into rudeness. Remember that the real issue in any case is whether the actual services in the classroom are sufficient to enable a child to progress educationally and whether the service providers are qualified to deliver those services, not whether the school representatives treat you with civility. It often helps to put

yourself mentally into the shoes of the administrator and/or teacher and understand their agendas. For example, a special education administrator must respond not just to children's needs and to parents, but also to the demands of superintendents, school committees and teachers and other service providers. A regular education teacher, who entered her profession with energy, creativity, and love for children, may have been burned out by years of teaching increasingly larger classes, including children with complex special needs, without adequate support or training.

Rule Nine: Consider How Each Step Would Look to an Impartial Decision-Maker

Consider how each action you or your school system takes will look if someday that action is described to a hearing officer charged with deciding about your child's special educational plan. This precept underlies all the others: You want a hearing officer to see that you have shared information, treated school personnel with courtesy, selected credible experts, tried any reasonable options the school system offered, and are using the due process system to seek truly important services rather than to fight over minor concerns or procedural violations that do not seriously affect the quality of your child's program.

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