

## Advocacy Tips for the GAL in Special Education

There are many opportunities for the GAL to advocate for appropriate supports and services for students with disabilities. These include educating the court, the school, and the parent about their roles in ensuring that students with disabilities receive the services they need to benefit from their education and become independent adults. One of the best predictors of success in life is success in school.

### Advocating with the court

- **Ask the judge to identify an educational decision maker (parent) if necessary.**

In special education, the “parent” serves as the procedural rights holder and provides the consent for services provided to the student. For students involved in juvenile court, in custody, or in foster care, it is not always clear who is the parent. A court order can help to clarify who serves as parent for special education purposes.

The definition of “parent” in special education is broad. See, O.A.C. 3301-51-01 (B)(44)

Parent is defined as:

- (a) A biological or adoptive parent of a child but not a foster parent of a child;
- (b) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the state if the child is a ward of the state);
- (c) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
- (d) A surrogate parent who has been appointed in accordance with rule 3301-51-05 of the Administrative Code.
- (e) Except as provided in paragraph (B)(44)(f) of this rule, the biological or adoptive parent, when attempting to act as the parent under this rule and when more than one party is qualified under this rule to act as a parent, must be presumed to be the parent for purposes of this chapter of the Administrative Code unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
- (f) If a judicial decree or order identifies a specific person or persons under paragraphs (B)(44)(a) to (B)(44)(c) of this rule to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this rule.

In situations where the parents are divorced, they can both share legal custody of the children. This means that unless a court order or divorce agreement says otherwise, both parents of a child with a disability share the education decision-making ability.

Where there is no one available to act as parent, the school district must appoint a surrogate parent. For kids who are wards of the state, the judge may also appoint a surrogate.

- **Ask the judge to identify the responsible school district if necessary.**

In special education, the school district where the parent resides (district of residence) is generally the district that is responsible for paying for and ensuring appropriate educational services for a student. However, some students may live outside of the district of residence. In those situations, the student may attend school in another district (district of service), but the district of residence remains legally responsible for paying for the education and the quality of the services.

The district of residence is required to organize IEP meetings to discuss and resolve disputes. The director of special education from the district of residence is the person to contact when special education disputes arise.

- **Ensure the court has information about the disability.**

It is important for the court to understand a child's disability and how it affects functioning in school and in the court setting. Many students with disabilities have communication difficulties that can result in behaviors that interfere with learning and participation in court.

A lot of good information is available in the student's special education evaluations (evaluation team report-ETR and individualized education program-IEP). Community providers who work with the child are also good sources of information about the student's disability. For a student with a developmental disability, the county board of developmental disabilities may be involved. In that case, the child will have a service coordinator who can provide good information about the student's disability.

- **Ensure the court has the necessary educational records.**

The court should review the student's special education records to understand whether the district had done its part in supporting the needs of the student. Records should be reviewed to determine whether the child has been evaluated for special education needs (evaluation team report-ETR), has an appropriate plan (IEP or 504 plan), has a behavior intervention plan if needed (look for a functional behavior assessment-FBA, and a positive behavior intervention plan-BIP).

If a critical document is missing, the court should enquire as to why.

#### Advocating with the school

- **Ask the school to evaluate the student if a disability is suspected.**

Early identification of students with disabilities is critical to school success. If you are working with a student who is having academic, social or behavioral issues in school and a disability is suspected, encourage the parent to make a referral for evaluation.

- **Ask the school to schedule an IEP/504 meeting to resolve problems.**

Most disputes in special education are resolved at the IEP/504 meeting level where a group of knowledgeable people can identify learning issues and ways to support school success. An IEP/504 meeting can be requested at any time, and a school must grant all reasonable requests for meetings.

The law requires that a meeting be held at least once a year, but in many cases, more frequent meetings are needed to address issues as they arise.

- **Ask the school to encourage parental participation.**

Special education law requires parental participation at all stages of the process. Parents have a unique perspective and knowledge of their children, and their participation helps to identify the child's strengths and needs. In many instances, parental participation is required to move the special education process forward (e.g. parental consent to begin special education services or change an educational placement).

- **Ask the school to appoint a surrogate if necessary.**

In situations where the natural or other parent is not available to advocate for the child, a surrogate must be appointed. To achieve the best outcome for the child, the surrogate must be familiar with the special education process, the child, and the child's disability. Surrogates stand in place of the parent, and a strong advocate is important for a good outcome.

- **Advocate for appropriate services.**

Educational problems can arise when the appropriate services and supports are not in place. Advocate to ensure that the student's academic, social, behavioral and functional needs are supported in the school environment. Special education is unique in that it requires schools to identify and address the individual needs of the student with a disability. This means that a wide range of services and supports can be provided.

#### Advocating for the child

- **Know the child, the child's disability, and the child's needs.**

Special education is individualized to address the unique needs of a child with a disability. Being a good advocate for a student with a disability requires knowledge of the disability, the child and how to support the child. Ensure that others working with the child also have the information and knowledge to make good decisions about the child.

- **Participate in meetings.**

All major decisions about a child with a disability are made by the education team at the IEP/504 meeting. It is important to attend these meetings to become more knowledgeable about the child, the process, and the issues affecting the child's educational progress.

- **Ask the parent and child what they need and what works for them.**

Often, the parent and the child know best what types of services and supports can help to make the child successful in school. Particularly for older children, their participation in decisions about them helps them to buy in to the process and feel more willing to cooperate with the services and supports provided. This is especially true in the area of behavior management.

- **Know about other sources of supports/resources.**

Many students with disabilities need and are eligible for other sources of resources and supports. State and county agencies specializing in disabilities are available to provide extra help. The knowledgeable advocate can help teams identify additional supports to help the child succeed in school.

- **Understand the common issues affecting students in the system.**

Students in the system face a host of issues that can lead to poor educational outcomes. Anticipating these issues and knowing how to resolve them is an important role for the advocate. These issues can include:

- frequent moves and changes in school placement
- enrollment problems due to uncertainty in living arrangement
- homelessness
- transportation problems

Highly mobile students have lower school engagement, poorer grades in reading (particularly in math), more psychological problems, and a higher risk of dropping out of high school.

Ways to support these students include: good mechanisms to ensure records are transferred quickly, working with the homeless liaison to resolve enrollment and transportation issues, and ensuring that there is interagency coordination to help resolve issues (schools, county boards of developmental disabilities, community mental health providers, advocates, and others can all work together).

- shortened school day

All students in Ohio are entitled to a full school day. Situations can arise where a student is not receiving a full day of school. Examples include: students on home instruction who get one hour of tutoring a day, students placed in residential treatment who receive a half day of education and a half day of treatment services, and students who miss part of a school day due to scheduling or transportation issues.

You should ensure that all students are receiving the required full school day, and if they are not, determine if the shortened school day is permissible (e.g., required because of a medical condition or disability) or inappropriate (e.g., done for administrative convenience of the school or other facility). If the shortened school day is inappropriate, an IEP/504 meeting should be held to resolve the issue.

- lack of access to extracurricular activities

Be careful not to focus only on the problems that a student is having in school. Educational questioning should focus also on the strengths of the student. Access to extracurricular activities not only helps students feel involved in their schooling (and increase the likelihood of success), participation in sports and school groups can often be a way to encourage attendance, better behavior, and the formation of friendships.

- attendance problems

Recent changes in Ohio law (H.B. 410) prevent schools from suspending or expelling students for truancy problems. Instead, schools must address the problem and find ways to support school attendance. Schools are required to use a variety of interventions including:

- Notification of student absence to the parent or guardian;
- Development and implementation of an absence intervention plan, which may include supportive services for students and families;
- Counseling;
- Parent education and parenting programs;
- Mediation;
- Intervention programs available through juvenile authorities; and
- Referral for truancy, if applicable.

-mental health problems

Schools are required to address the mental health needs of students. Students with IEPs and 504 plans are entitled to school based mental health services as necessary to provide them with an appropriate education. These include: psychological services, counseling services, social work services, and parent counseling and training. The IEP/504 team should discuss the need for school based mental health services and add them to the plan as necessary. This service can be a stand-alone service or provided in connection with a behavior plan developed by the team.

-school credit problems

Students who are highly mobile, removed frequently from school, or who are placed periodically in alternate or behavior schools often get behind in credit acquisition. Depending on the facility the student attends, the work completed may or may not qualify for credits once the student returns to school. A review of student credits should be completed periodically to ensure the student is acquiring credits commensurate with the expected graduation date.

-failure to plan for transition from high school

Students with disabilities are entitled to special transition planning to ensure the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. This process should include:

Instruction;

Related services;

Community experiences;

The development of employment in an integrated competitive environment and other post-school adult living objectives; and

When assessment data supports a need, acquisition of daily living skills and provision of a functional vocational evaluation.

For transition-aged youth (ages 14-22,) a review of whether appropriate transition planning has occurred should be completed. If it has not, or the quality of the services are poor, a meeting to discuss transition planning should be requested.

