

What Constitutes Providing Services in a Collaborative Manner

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GENERAL CONSIDERATIONS

- The vast majority of parents work collaboratively with schools
- Utilize empathy
- Be a good listener
- Understand unique and difficult family situations
- With these factors in mind, school personnel should not be subjected to bullying, harassment, and disrespect
- Always keep the best interests of the child in perspective

Whose responsibility is it to determine who has parental rights?

- Start with a presumption that there are two parents who have decision making authority
- Responsibility of the parent to notify the school district of any situation to the contrary

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You Must Clearly Identify the 'Parent':

- Under the federal definition several individuals may qualify
- Identify people who are showing up for the student on a regular basis
- Confirm parental authority by consulting the student's permanent file
- Ask additional questions of 'Family' and campus personnel

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Are We Allowed to Assume that What the Family Says Is True? [On the Issue of Parental Rights]

- Generally speaking, Yes
- When paperwork doesn't match parent explanation, it's time to start looking harder
- In Texas, these issues tend to be addressed upon enrollment

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IDEA Definition of "Parent": 34 CFR 300.30

- Biological or adoptive parent;
- A foster parent
- A guardian: generally authorized to act as the parent or make educational decisions
- An individual acting in the place of a biological or adoptive parents (including a grandparent, stepparent, or other relative)
 - *with whom the child lives OR*
 - *An individual who is legally responsible for the child's welfare*
- Surrogate parent

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Texas Definition of 'Parent' Specifies Who Is NOT a Parent: Texas Education Code (§)26.002

- A parent is anyone standing in parental relation
- A parent does NOT include:
 - A person as to whom the parent/child relationship has been terminated
 - A person who is not entitled to possession or access by court order;

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When Parents Do Not Agree On The IEP and/or Placement:

- In the absence of a court order to the contrary, both parents are generally allowed to participate in the development of the IEP

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What About Dad's New Girlfriend?

- Can she look at school records?
- Can she attend a parent/teacher conference?
- Can she participate in an ARD meeting?

- Rule: It only takes one parent to authorize dad's girlfriend to act on dad's behalf

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Remember: In the Event of a Judicial Court Order or Decree:

- If the decree or order identifies specific person or persons to act as the parent or to make educational decisions on behalf of the child
- Then the person or persons identified in the decree or court order shall be determined to be the parent

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PARENTAL RIGHTS

- ✓ Right to a due process hearing
- ✓ Right to prior written notice
- ✓ Right to be part of the ARD committee
- ✓ Right to consent
- ✓ Right to revoke consent
- ✓ Right to inspect records
- ✓ Right to request an IEE
- ✓ Right to notice of procedural safeguards

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SUMMARY OF CASE HOLDINGS ADDRESSING COLLABORATION

- One of the factors reviewed by the Fifth Circuit in determining FAPE is whether the “services were provided in a coordinated, collaborative manner by key stakeholders”.
- Obviously, the parents and school personnel constitute “key stakeholders”.
- “The IDEA contemplates a collaborative process between the school district and the parents”
- “The IDEA does not require a school district, in collaborating with a student’s parents, to accede to a parent’s demands”
- “The right to meaningful input does not mean a student’s parents have the right to dictate an outcome because parents do not possess ‘veto power’ over a school district’s decisions”

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SUMMARY OF CASE HOLDINGS (CON'T)

The Fifth Circuit has stated that “absent a bad faith exclusion of a student’s parents or refusal to listen to them, a school district must be deemed to have met IDEA’s requirements regarding collaborating with a student’s parents.”

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STUDENT V. MCALLEN ISD (January 2024)

In ruling for the school district on all issues, the hearing officer discussed collaboration with the parents and determined:

- The district listened to the parents;
- The parents participated in ARDs and always had a professional advocate or attorney present;
- The district adjusted the student’s services based on parental input;
- The district conducted a counseling evaluation at the parent’s request;
- The district coordinated with the parents in developing goals and PLAAFPS;
- The district provided progress reports at regular intervals; and
- The district addressed the parent’s concerns through email and phone calls.

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HOW TO ATTAIN APPROPRIATE “COLLABORATION”

- ❖ Hearing offices will look at the overall tone and tenor of the meeting to determine if the process was intimidating to the parents, resulting in a denial of FAPE
- ❖ Attitudes of dismissiveness and impatience by school personnel will not be viewed favorably
- ❖ Once the parties have stated their respective positions, the school can move forward with the ARD agenda
- ❖ Disagreements are handled through the 10-day recess provisions or dispute resolution procedures
- ❖ Do not “predetermine” ARD decisions (can cut both ways though)
- ❖ ARD facilitators can be used

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Strategies for dealing with a difficult parent

- Set reasonable expectations
- *Respond* to demands, statements, etc.; Never *react*
- Have the parents sign for the procedural safeguards
- When a record request is made, have the parent sign for the records to ensure receipt
- Schedule any observations or visitations to minimize disruption of instruction
- Remember that methodology and staffing are district decisions

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ADDRESSING PARENT DEMANDS

When a parent is demanding something for the child, three questions should be considered:

1. Is it necessary?;
2. Will it be a detriment to the child?; and
3. Will it cause an undue hardship on the staff?

Remember, the school remains responsible for providing FAPE, not the parent.

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DISAGREEMENTS

All members of the ARD must have an opportunity to participate in a collaborative manner in developing the IEP

A decision by the ARD concerning required elements of the IEP must be made by mutual agreement, if possible

When mutual agreement cannot be reached, the parent who disagrees must be offered a single opportunity to recess and reconvene (not in excess of 10 school days unless mutual agreement)

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DISAGREEMENTS

If, after the ten day recess, the parties are still in disagreement, the school must implement the IEP that it has determined to be appropriate for the student.

When mutual agreement is not reached, a written statement of the basis for the disagreement shall be included in the IEP.

The school shall provide prior written notice.

The parents have the right to file a complaint, request mediation, or request a due process hearing at any point during the process if they disagree with the decisions of the committee.

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