



Individualized Education Program: Effective Advocacy Tips

disAbility Law Center of Virginia
2019

Agenda

- IEP Meeting Advocacy
- Know the Law
- Dispute Resolution
- Other Resources

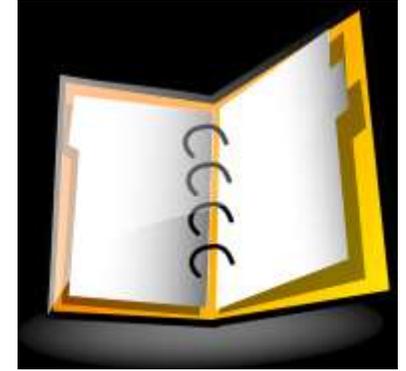




IEP Meeting Advocacy

Making the most of your time with “The Team.”

Preparing for the IEP Meeting



- IEP binder that includes current and prior IEPs, prior written notices, progress notes, report cards, evaluations, and any other relevant documents
- Make sure you know what is on the agenda for the IEP meeting. If you would like to discuss something at the meeting notify the school ahead of time.
- Request copies of any documents that will be referred to at the meeting including draft IEPs. Ask to receive the documents several days ahead of time.
- Review documents including any evaluations that will be discussed.
- When reviewing a draft IEP for an annual IEP meeting make sure all your child's needs are addressed.

Preparing for the IEP Meeting- Continued



- Make a checklist of talking points and questions for the IEP team.
- Plan to arrive on time to the IEP meeting.
- Parents have a right to invite anyone with specialized knowledge or expertise regarding their child. Who do you want to invite? A therapist, medical provider, mentor, coach?
- Children especially as they get older should be active participants in their IEP meetings. Determine what part of the IEP meeting your child will attend, and prepare them for what will be discussed.

During the IEP Meeting

- Focus on the problem, not the people
- Stick to your agenda
 - Use a checklist
 - Split the meeting across multiple sessions, if needed
- You have the right to audio record
- Rely on your team
 - Take breaks to talk privately with the people you've brought with you
 - Compare notes frequently
- Do not feel pressured to provide consent to implement the IEP at the end of the meeting



After the IEP Meeting: Monitoring and Checking In

- Review the IEP and any prior written notice form to make sure everything you agreed to or discussed is included IN WRITING
- Schedule how, and how often, progress will be reported at the same time you create your goals
- “We want to make sure what we’re seeing/doing at home is consistent”
- Positive and negative feedback

FERPA and Classroom Observation

- FERPA is often cited by schools as a reason parents can't observe their child in the classroom setting, but FERPA only protects educational records.
- OCR has opined that classroom observation is one way for parents to fulfill their role as a participant in the IEP process





Know the Law

Your rights and the school's obligations

Tell it to the Judge: Caselaw Standards

- Rowley
 - Reasonable calculated to confer educational benefit
 - Not entitled to a “Cadillac”
- Endrew F.
 - IEP goals appropriately ambitious in light of individual circumstances
 - Clarified deference to school-side experts
- Fry
 - Interplay of ADA/504 and IDEA
 - Exhaustion of Administrative Remedies
 - Same claim made by an adult at the school or by student in another setting?

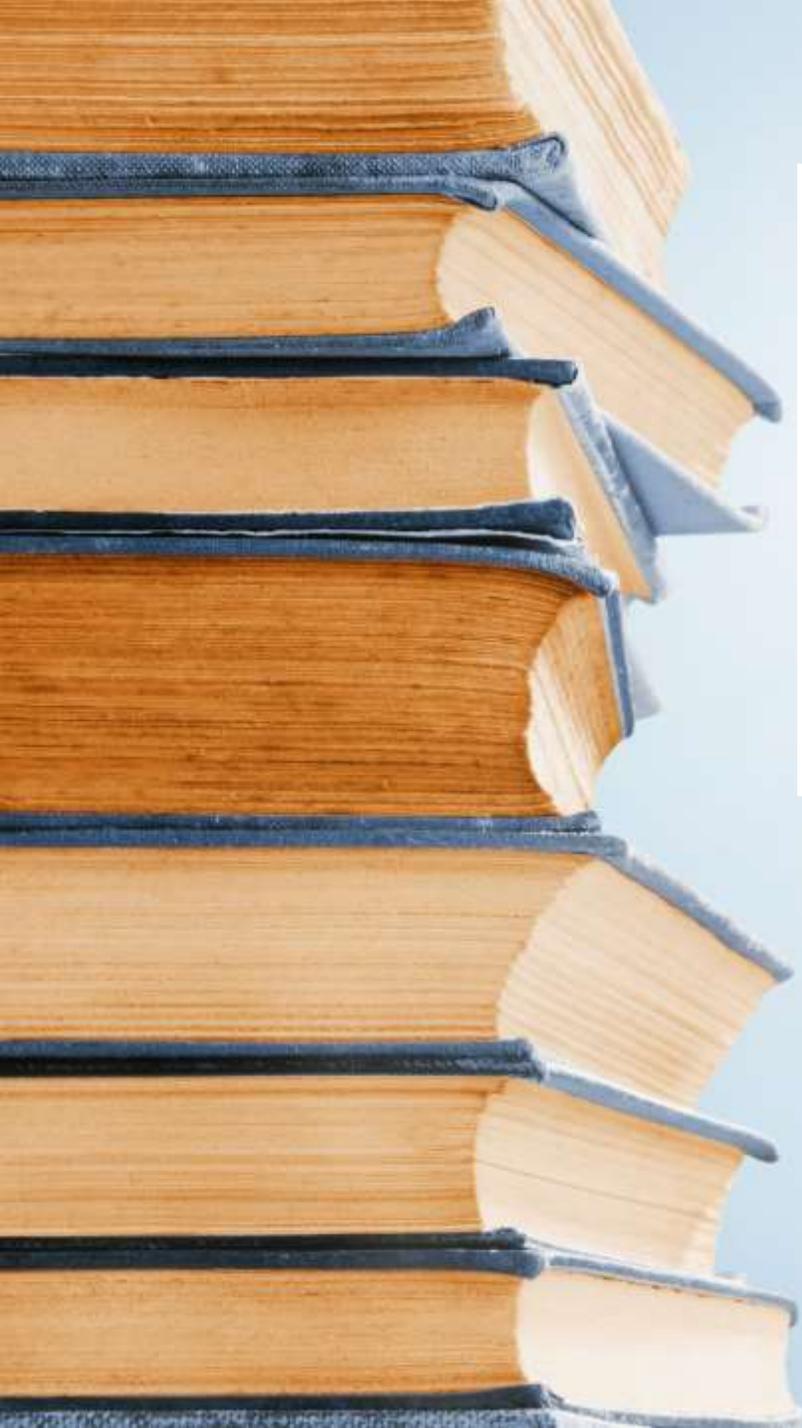


Discipline: New Standards for ALL Students

- Pre-K-3rd
 - Maximum 3 day out of school suspension; no expulsions
 - Unless physical harm or aggravating circumstances
 - SB 170
 - Va. Code §§ 22.1-254, 22.1-277 and 22.1-277.2:1
- All students
 - Maximum long term suspension reduced from 364 to 45 calendar days
 - Unless physical harm or aggravating circumstances
 - HB 1600
 - Va. Code §§ 22.1-276.01 and 22.1-277.05



July 1, 2018



Dispute Resolution

What are a parent's options when they and the school disagree?

Informal Dispute Resolution Advocacy Tips

- If you disagree with the school about something, ask them to explain their position, so you fully understand how they reached their decision.
- If there are other items on the agenda, request to hold an additional IEP meeting to discuss a point of disagreement. A new IEP can be created based on everything a parent and school agrees on. An IEP amendment can always be made at a later point for matters that need additional discussion.
- If you disagree with a school's evaluation, you have a right to request an independent educational evaluation.

Mediation: Tips



- Inform the school of what specific issues you want to discuss at mediation
- Agreement should be clear and detailed so that school's responsibilities can be enforced
- Include deadlines for when certain obligations must be completed
- Make sure that you understand and agree to what claims you are waiving. Be careful of waiving claims to unrelated past issues or future claims.
- Include exceptions to the confidentiality clause for spouses, or others you intend to talk to about the settlement agreement
- Make sure you understand what would be considered breaching confidentiality

Virginia Department of Education Complaint: Tips



- The complaint form can be found on VDOE's website.
- When completing the complaint request form, be sure to cite to the section of the "Virginia Regulations Governing Special Education" that the school violated and explain with facts how the school violated this section.
- If there is an educational record (such as an IEP or Prior Written Notice) that supports your claim, submit a copy of this document with the complaint form.
- You may wish to attach a letter outlining the facts surrounding the complaint and how the school violated the special education regulations as the complaint form does not leave much space to explain what is occurring.

Due Process: Tips



- While not required by law, dLCV strongly recommends that you have an attorney represent you at due process.
- If possible, secure representation prior to filing your request for due process. Once you file your request, the process starts moving forward.
- Due process is the most adversarial dispute resolution option. Consider how this may affect your future relationship with the school.

USDOE OCR Complaint: Tips



- Include any supporting documentation with your Complaint request
- You don't have to use OCR's form, but it's the easiest way to make sure OCR has all the information they need – you can always attach additional papers if you need more room
- Be prepared to answer questions from the OCR investigator assigned to your Complaint
- Be clear about what school personnel are responsible for implementing the Resolution Agreement and how to report any violations back to OCR

Appeals

- Based on newly found information or error of fact or law
- Must include supporting documents and identify errors
- Complaint
 - Appealable to Virginia Department of Education
 - 30 days from Letter of Findings
- Due Process
 - State Circuit Court – 180 days
 - Federal District Court – 90 days
- OCR
 - Appealable to OCR
 - 60 days from Determination Letter



Stay Put

- Any formal dispute resolution process
- Student remains in last agreed-upon placement
- **Exceptions:**
 - In an Appeal of Due Process, Hearing Officer's decision acts as the Stay Put if in agreement with the parent on a change in placement; otherwise, held in abeyance.
 - Does not apply to changes of placement that arise from a disciplinary action





Other Resources

Where can you go for help?

Where can you go for help?

- VDOE has a parent ombudsman that can assist parents and answer questions in non-legal special education matters. Her contact information can be found on VDOE's website.
- Some local legal aid offices provide free legal representation for families. (Must meet financial eligibility requirements)
- Law Students in the William and Mary Law School Special Education Advocacy Law PELE Clinic provides free legal representation. (Must meet financial eligibility requirements)
- Private attorneys and non-attorney advocates
- The disAbility Law Center of Virginia provides three levels of individual services.



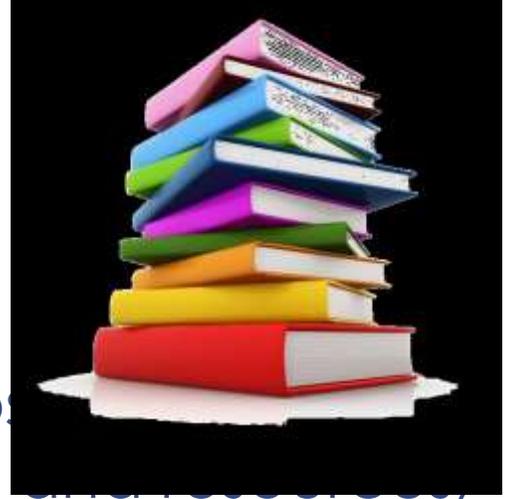
How dLCV Can Help



- Information and Referral
- Short Term Assistance
- Case Level Services

- Services we can provide depend on many factors, such as our agency's resources and the current year's goals and objectives.

Resources



- Virginia Department of Education: VDOE's website (www.doe.virginia.gov) has a lot of information on special education, which includes a parent's guide to special education and a compilation of Virginia regulations relating to special education.
- Parent Educational Advocacy Center: PEATC provides special education, information and training to parents. Their webpage has on-demand trainings, a listing of parent support groups, and calendar of upcoming trainings.
- Parent Resource Centers: Some school divisions have parent resource centers. Each center is different but some services that may be provided include workshops, resource materials, and consultations.

Contacting dLCV

Advocate on-duty:

Mondays, Wednesdays, and Fridays

8:30 AM-4:00 PM

Contact Information:

1512 Willow Lawn, Suite 100

Richmond, VA 23230

800-552-3962 or 804-225-2042 (phone)
804-662-7057 (fax)

info@dLCV.org

