

Schools Must Put Effort into Parent Participation in the IEP Meeting

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How much effort do schools have to make to get a parent to an IEP meeting? The Ninth Circuit answered this question in June of 2013 in a Hawaii case, *Doug C. v. State of Hawaii Dep't of Education*.

Spencer was a teenager with autism who had been placed in a private school at the district's expense. The school district proposed to move him to a program at the public high school. Spencer's father, Doug, wanted to attend the IEP meeting. The school district and Doug had some initial scheduling issues, then Doug was ill the day of the scheduled IEP meeting. The special education coordinator, who had tried to schedule the meeting three times, went ahead with the meeting. At that meeting, the IEP team changed Spencer's placement without any input from either parents or staff at his current private school.

Doug filed for due process. Doug lost, because neither the administrative hearing officer nor the federal district court believed that Spencer had been denied a FAPE. Doug appealed to the Ninth Circuit.

The Ninth Circuit focused on whether the school district had met IDEA's requirements for parental participation in an IEP meeting, and concluded that it had not. Parents must have the chance to participate, not only because they represent the best interests of their child, but because they provide critical information.

The only time a parent may be left out of the IEP meeting is when the school is unable to convince the parent to attend. This was not the case with Doug, who had been trying hard to attend, but had scheduling issues and then got sick. Although Doug may have been frustrating to work with, the school could not duck its obligations by blaming the parent. Doug's presence at the meeting had to **take priority** over the presence and schedules of other team members. Even if the school had missed the IEP annual deadline, it could have continued providing services.

The Court concluded that Spencer had been denied FAPE and remanded the case to the district court to determine whether the school district needed to reimburse Doug for the tuition spent on the private school (where he had kept Spencer during the proceedings).

This case suggests that schools must work with parents on scheduling issues (even when the parents are annoying).