

PL 96-657 Helps Parents and Schools Work Together on implementing IEPs

It's late October 2008, Mrs. Smith goes to her mailbox. Awaiting her in the mailbox is the progress report for her eight-year-old son's progress in from the local public school he attends. Her son has Attention Deficit with Hyperactivity Disorder (or "ADHD") with a learning disability in reading. Her son's teacher knows this, and in fact, the school is implementing an Individual Education Plan (or "IEP") agreed to at the end of the last school year by Mr. and Mrs. Smith along with the school's IEP team.

Mrs. Smith opens the progress report to find that her son has not improved in reading at all and may actually be falling more behind. Distressed, Mrs. Smith calls the school asking to observe her son in the classroom. She is told that the school does not allow such visits.

Across town, Mrs. Jones goes to her mailbox. Her daughter's progress report is in the mailbox. Her daughter has a learning disability that affects her math skills. Her school knows of this condition as it was diagnosed a few years earlier. Mrs. Jones opens the progress report to find that her daughter is slipping further behind even though accommodation agreed to in the IEP last year should be helping. She calls the school to ask if she can have a qualified professional observe her daughter in the classroom to help determine what may be the issue. The school agrees, and Mrs. Jones sets a date for the observation with the school.

For years, these scenarios have played between parents with children who have learning disabilities and schools. The inconsistency is both obvious and frustrating. Illinois schools had discretion to refuse observations by parents or qualified professionals hired by parents of children to evaluate the implementation of the accommodations in the IEP.

Congress originally enacted the Individuals with Disabilities Education Act in 1970 (or "IDEA") and codified a revised version of the IDEA in 2004. IDEA has two grounding principles to guide educators when evaluating a child with special needs. First, children with disabilities are to be provided with "a free appropriate public education which emphasizes special education and related services designed to meet their unique needs [and] to assure a that the rights of [such] children and their parents or guardians are protected." Forest Grove School District v. T.A., 2009 WL 1738644 (US). Further, according to IDEA, a child with special needs should be educated in the "least restrictive environment" (or "LRE") to meet his/her unique educational needs.

While IDEA gave parents and children specific rights, parents still faced daunting challenges regarding how to effectively advocate for their children who have special needs including the denial of the opportunity to observe a child in the educational setting in which a child receives his/her educational accommodations. However, recently, many states, including Illinois, have passed law to empower parents to better represent the interests of their children in the classroom

and alleviate the inconsistencies in policy regarding observing students in their educational setting.

On August 31, 2009, that challenge was alleviated when both houses of the Illinois General Assembly in June 2009 passed legislation and signed into law on August 31, Public Act 96-657 amends the Illinois School Code by bringing much needed consistency to policies Illinois Schools have for allowing parents the opportunity to observe their child's Individual Education Plan's (IEP) implementation. Efforts to bring about this change were spearheaded by Health & Disability Advocates of Chicago and are viewed as a "win-win" for both parents and school districts because it allows parents and schools to avoid conflict.

Applying to public schools and schools or programs that receive public funds in the State, the amendment allows parents or a hired "qualified professional" who holds credentials to evaluate a child in the domain for which they have an IEP, the opportunity to observe the educational facilities including classrooms and areas of the building where a child is educated and interview personnel who implement a child's IEP. Prior to Public Act 96-657, each school set its own policy; some schools not allowing any type of observation. Parents now have the ability to propose a visit and the parent and school may determine a mutually agreeable time.

Public Act 96-657 allows parents and child evaluators or qualified professionals hired by parents to more fully participate in the creation and implementation of their child's IEP. Parents of children with learning disabilities or behavioral issues face real challenges when attempting to advocate for their children when they do not know what is occurring in the classroom or school. This amendment to the Illinois School Code addresses these challenges and enables parents to assist in creating a more meaningful learning experience for their child.

To learn more about Special Education and your rights as a parent in Illinois: http://isbe.net/spec-ed/html/parents_rights/.htm or www.isbe.net and follow the links under Special Education or see www.waters-associates.net