Key points:
• Keeping copious notes can help resolve disputes later
• It's OK to pre-plan for IEP meeting; just don't predetermine placement, services
• Designate notetaker, even if using electronic recorder

IEP notes: When in doubt, write it out

The Supreme Court's recent declaration that academic goals for students with disabilities should be "appropriately ambitious" is all the more reason team members should be extra meticulous about documenting any discussions about changes to a student's IEP. Endrew F. v. Douglas County Sch. Dist. RÉ-1, 69 IDELR 174 (2017).

Disputes about changes in a student's plan may surface at a later date and, as every attorney learned in law school, if it is not documented, it's as if it didn't happen. Attorneys, however, are not always at IEP meetings, so parents and educators need to keep good notes.

That means writing -- or typing -- everything down and then marking whether those discussions led to a decision or if an issue remains unresolved and what the next steps will be. There is no requirement in the IDEA to keep minutes -- or notes -- of an IEP meeting, but special education professionals and attorneys highly recommend the practice.

"Notes can make or break a case," said Anahid Hoonanian, a school attorney at Lozano Smith, LLP, in Los Angeles. This is particularly true if several years have passed between when an IEP meeting was held and when a dispute arises. If two witnesses provide different versions about what was said and agreed upon, documents that corroborate one side's testimony can give that side more credibility, Hoonanian said.

Hoonanian, who spoke at LRP's 38th National Institute on Legal Issues of Educating Individuals with Disabilities® and later with SpecialEdConnection®, offered these tips for documenting IEP changes:

• Draft the IEP. It is legally correct to pre-plan for an IEP meeting as long as IEP changes are not pre-determined by school staff. All pre-IEP meeting documents should be marked as "draft." The draft IEP and final IEP will most likely be different as parent input is taken into consideration and changes are debated and negotiated. The Supreme Court noted in its Endrew F. decision, "An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability, and potential for growth."
• **Make note of Endrew F.-type of terminology.** The IEP team should take notes during discussions that relate to the recent *Endrew F.* decision, including how the IEP is, "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

• **Designate a notetaker.** Any IEP team member can take his personal notes, but one member from the school staff should be designated as the official recorder. This person should have a good understanding of IEP procedures and know to document significant discussions or points, such as when parents are offered to voice their concerns and suggestions and how those concerns or suggestions were considered in the development of the IEP. "This shows you take parents' input and have an open mind," Hoonanian said.

• **Detail details.** If the team agrees that a student needs preferred seating, the notes and final IEP should explain if that seating is close to the front of the room, the back of the room, near the teacher's desk, or in another location. It should say if preferred seating is needed in every classroom or just in one subject. If extended time is needed for tests, the notes should explain how much time and for what tests. Hoonanian described this as the "stranger test." If the student moves to another school district and that district's staff reads the IEP, would the staff know exactly what that student needs and is entitled to?

• **Know rules regarding recorded IEP meetings.** Even if an IEP meeting is recorded, it is good practice to still write or type notes. Recordings can get lost and erased. Parents and school staff also don't necessarily need to share copies of recordings and notes. If school staff records an IEP meeting with the consent of the parents, that recording becomes an official part of the student's school record.

• **When in doubt, write it out.** Document when parents are given a copy of the procedural safeguards. This helps to show that parents were notified of their rights, Hoonanian said. She also advised that if an IEP team member is absent it be noted, along with the circumstances surrounding the absence, any prior written input provided by the team member, and any offer to reschedule the meeting.

*Kara Arundel covers special education for LRP Publications.*

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