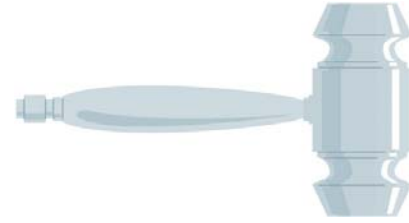


# Legal Corner



By Michael I. Levin, Esq., PAESSP General Counsel

## ***The Principal as LEA: What Do I Have To Do?***



On a daily basis, building principals are called upon to do a variety of things: supervise and manage building employees, meet with parents concerning student discipline, mediate student disputes and basically ensure that the students are being educated in an appropriate manner. In addition to these

tasks, principals are often called upon to serve as the local education agency (LEA) representative in Individualized Education Plan (IEP) meetings.

In a perfect world, the director or supervisor of special education would attend all IEP meetings as the LEA representative, as they are the most knowledgeable about special education needs and the resources available at the school district. However, given the sheer amount of students in need of special education services, the director or supervisor of special education cannot attend each and every IEP team meeting as the LEA representative. This responsibility then falls to the next most knowledgeable person in the building concerning curriculum and resources, the school principal.

Although many principals may feel that their time could be spent more wisely given the totality of their responsibilities, it is required by law that a person with the authority to speak for the school district be required to attend IEP meetings. Because the building principal is (or should be) knowledgeable about the school, the curriculum and available resources, the building principal becomes the “go to” person when an IEP meeting is in need of an LEA representative. Despite being the “go to” person, many principals are unaware of what their role really is in the meeting and what they can do to move the process forward. This article is designed to inform school principals about

their duties and responsibilities when acting as an LEA representative.

### ***The Basics***

The Individuals with Disabilities Education Act (IDEA) and Code of Federal Regulations create highly regulated procedures concerning the education of special education students and students thought to be in need of special education. The responsibility for providing a free, appropriate public education (FAPE) and all the related procedural safeguards rests with the child’s LEA<sup>1</sup>. With certain statutory exceptions, the LEA is the school district of the child’s residence<sup>2</sup>. The school district is charged with the responsibility, pursuant to federal and state law, of ensuring the provision of special education programming and services to the resident eligible child. 24 Pa. Stat. Ann. § 13-1372.

The LEA is a representative of the school district who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general education curriculum; and is knowledgeable about the availability of resources of the local educational agency. The LEA representative is a member of the IEP team. 20 U.S.C. § 1414 (B)(iv), 34 CFR § 300.321 (a)(4). In addition, the LEA representative has a variety of responsibilities related to the special education program.

In a nutshell, the LEA representative is responsible for knowing that the services being agreed upon at an IEP team meeting are available to be provided.

### ***LEA Representative Responsibilities Child Find***

In order to ensure compliance with legal requirements, LEA representatives should have written procedures that outline the Child Find program that is in place. Both 20 U.S.C. § 1412 (a)(3) and 34 CFR §

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300.311 outline the requirements for Child Find procedures. The law provides that “[a]ll children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located and evaluated.”

The state and federal regulations govern what is required of school districts concerning the Child Find requirement. The regulations require advertising in the local newspaper, placing informational pamphlets in plain view at schools, including private schools, and other activities so that parents are made aware of the resources available through the LEA. The information should include contact information for the LEA representative, and the LEA representative is responsible for implementing the Child Find program as well as updating information related to Child Find.

District-wide Child Find activities are most likely handled by the director or supervisor of special education or a similar central administrator. However, each school building should have Child Find notices or pamphlets so that parents are aware of the resources available through the school district. Further, employees in each building should know where to refer parents when there are questions about special education services available. The building principal must ensure that the school district is complying with its Child Find requirements at the building level.

### **Evaluation Procedures**

The school principal, as LEA representative, is responsible for insuring that the evaluation procedures outlined in federal and state law and regulations are followed. As of July 1, 2008, the law changed requiring an initial evaluation to be completed

within 60 calendar days of receiving parental consent. This is a very short period of time, especially since the law had previously required the evaluation to be completed in 60 school days, a much longer period of time.

The evaluation must consist of procedures that will determine if the child is a child with a disability as well as to determine the educational needs of the child. Re-evaluations may not occur more than once a year, unless the parent and LEA agree otherwise, and must occur every three years. A variety of assessments must be used in the evaluation and no single measure or assessment can be used as the sole criterion in determining whether a child has a disability or the appropriate educational placement for the child. 20 U.S.C. § 1414(a)(1)(C), 20 U.S.C. § 1414(2), 34 CFR § 300.301-304.

Usually the evaluation process and procedures are organized and implemented by the special education director or supervisor. However, it is a good idea for the school principal to keep track of the evaluation and assessment process when the principal is acting as the LEA representative for a particular student. Now that the time frame concerning evaluations has changed, requiring a relatively small period of time for evaluations to take place, the building principal should keep a calendaring system so that timelines are not missed.

Timeliness of evaluations and issues concerning the appropriateness of evaluations has been and will continue to be the subject of due process hearings. By being aware of the time constraints and keeping on top of the evaluation process, the school principal can help avoid costly litigation concerning these truly avoidable issues.

### **Individualized Education Plans (IEPs)**

After it has been determined that a student is in need of special education services, the LEA must ensure that a meeting to develop an IEP is conducted within 30 days. 34 C.F.R. § 300.323(c)(1). For students who are already receiving special education services, each LEA shall have in effect for each child with a disability in the agency’s jurisdiction an IEP at the beginning of the school year. 20 U.S.C. § 1414 (d)(2)(A), 34 CFR § 300.323(a).

A student’s IEP must be reviewed by the IEP team at least annually. 34 C.F.R. § 300.324(b). In addition, the IEP team must revise the IEP to address lack of expected progress, the student’s anticipated needs, information from the parents or the results from any re-evaluation. 34 C.F.R. § 300.324(b)(ii). Any changes

in the student's needs or program must be addressed through an IEP team meeting and revision of the IEP.

The school principal as LEA representative is an important part of the IEP team and the IEP development process. The LEA representative must attend the IEP meeting as part of the IEP team unless the parent of a child with a disability agrees in writing that the attendance of the LEA representative is not necessary. It is strongly recommended that districts always have an LEA representative present at every meeting.

Certain members of an IEP team may not be necessary at every meeting because the member's area of the curriculum or related services is not being modified or discussed in the meeting. 34 C.F.R. §300.321(e)(1). For example, if the IEP team is meeting to discuss and revise a student's behavioral plan, the speech therapist, who is also a part of the IEP team, may not necessarily have to attend.

As part of the IEP team, the school principal as the LEA representative, along with other team members must consider the strengths of the child, the concerns of the parents, the results of the initial or most recent evaluation and the academic, developmental and functional needs of the child when developing an IEP. 34 C.F.R. § 324(a). It is the LEA representative who ensures that the program the IEP team agrees upon can be and should be implemented.

For example, if the IEP team agrees that a student is in need of speech therapy and a reading specialist, it is the LEA representative who has the information concerning the availability of these resources and can agree to the implementation of these services on behalf of the school district. Placement and services decisions really cannot be made without the LEA because typically, only the LEA representative has the authority to approve these elements of the student's program.

When a school principal attends an IEP team meeting as the LEA representative, the principal becomes the responsible party for the document. The school principal, as LEA representative, should at least be familiar with each IEP, if not be responsible for its final review. Before a scheduled IEP meeting, a school principal, as LEA representative, should review the draft document and meet with the special education teacher to discuss the program.

During the IEP team meeting, the school principal should follow along with the meeting. After the IEP team meeting, the school principal should review the final product. In other words, the school principal, as LEA representative, is not just another person who

attends the meeting and signs in. When called upon to be the LEA representative, the school principal must actively participate in the process and approve the program and services being agreed upon.

### ***Know When To Get Others Involved***

Invariably there will be situations where the LEA representative should be someone other than, or in addition to, the school principal. Some students need more assistance than the school district or building can offer. For these students, placement in a private school or in another program in a neighboring school district might be the level of services that are required under the IDEA.

In these circumstances, it will most likely be appropriate to involve the school district's special education director or supervisor. These types of decisions and the availability of other schooling options are better handled and decided by those who deal with these types of issues on a daily basis and who have specialized knowledge about the process and placements outside the school district.

In addition, there are some IEP team meetings that have the possibility of being or becoming contentious. For whatever reasons, be it unresolved issues from previous IEP team meetings, previous due process or just a clash of personalities, the school principal can expect some IEP team meetings to be problematic. When these meetings are scheduled, it is probably a good idea to contact the director or supervisor of special education so that he or she can also attend the meeting. Also, if a student's program has already been the subject of a due process hearing, it is a good idea to have the director or supervisor of special education involved.

As the LEA representative, it is important to know what services are available. In a 2005 Special Education Appeals Panel decision, a supervisor of special education testified that, as the school district's ultimate LEA, he had the final say concerning the extent of the related services that would be provided to a student, even if he was not present at the IEP team meeting. In re: J.H., Special Education Opinion Number 1651. In rejecting this approach, the Appeals Panel stated: Special education regulations provide that the IEP team has the responsibility and authority to determine the nature and extent of the related services, if any, that are necessary for a disabled child. 34 CFR §§300.340-300.347. If the district is allowing IEP team decision making to be subverted by its LEAs, it should immediately cease doing so.

This decision makes two important points: (1) programs and services provided in IEP's must be as a result of a team decision – not just the LEA representative, special education teacher or the parents; and (2) the LEA representative must know what services are available and what he or she has the authority to approve on behalf of the school district.

The school principal, as LEA representative, must know what services are available and what services need approval from the director or supervisor of special education, the superintendent or school board of directors. Once services are agreed to in the IEP team meeting, they must be provided to the student as soon as possible. Failure to deliver on agreed upon services will lead to due process and unnecessary litigation.

### **Conclusion**

The LEA representative is an important person in the special education process. He or she is approving the program and services and essentially assuring that these programs and services are available to the disabled student.

The LEA representative is not just another person to sit in the meeting and sign the attendance sheet. When a school principal is asked to take on this role on behalf of the school district, it should be with the full knowledge of the responsibilities and importance of the job.

#### **Footnotes**

<sup>1</sup> 20 U.S.C. § 1412(6); 34 C.F.R. §§ 300.220-.240, 300.600; 24 Pa. Stat. Ann. §§ 13-1371(2), -1372; 22 Pa.Code §§ 14.2, 342.2 (1997); 22 Pa.Code § 15.3 (1997).

<sup>2</sup> 24 Pa. Stat. Ann. §§ 13-1301, -1302, -1303, -1304, -1305, -1306.