



Basic Guidelines for Choosing an Attorney to represent your child's interests in Special Education

If you have a child with a disability, you may find that you need legal support to get the educational services your child needs. Attorneys who have licenses to practice law provide legal advice, help and support; they can represent you in court and in due process hearings. Licensed lawyers are accountable to strict rules of legal procedure and ethics.

Like all other attorneys, special education attorneys may be in private practice or they may practice in a public service agency such as a Protection and Advocacy agency, Legal Aid, Legal Clinic, or other similar organizations. You can find attorneys by calling your state bar association, local bar association, or local disabilities organizations. You can also ask other parents in your local area about attorneys they have used. The Council of Parent Attorneys and Advocates, Inc. (COPAA) also has an attorney locator available on its Web site at <http://www.copaa.org/find/index.asp>.

Choosing an attorney is an important decision. Attorneys' styles vary just as parents' styles do. Choose an attorney who is the most compatible with your personality and objectives. This basic guide will help you as you select an attorney who will be helpful.

Please keep in mind that before an attorney can answer some of your questions, the attorney may want to review your child's education records and other related records.

At the end of these Guidelines you will also find suggested questions that consumers of legal services should consider asking any attorney they are considering working with.

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Consider the attorney's special education expertise and knowledge

The law in special education cases can be complex. Although the training lawyers receive prepares them to deal effectively with legal complexities, law schools commonly do not teach special education law as a specific body of law. Attorneys who practice special education law should have suitable training and experience in this field. You want to make sure that they have the special education law experience you are looking for.

Find out if the lawyer you are considering routinely handles special education cases. Good lawyers in other fields of law often become motivated to begin practicing special education law. Special education lawyers also may be parents of children with disabilities. Knowledge and experience in other fields of law is one feature of an attorney's practice that may be important. Ideally, attorneys who help parents in this field should know the various federal and state laws and regulations about disabilities, civil rights, and special education. Special education

attorneys should also know the current special education court decisions from the federal and state courts as well as their state's administrative decisions.

Select an attorney with the special education experience you need

Practicing special education law and resolving special education conflicts calls for many different skills. Special education lawyers routinely conduct simple negotiations, mediations, administrative hearings (called "due process hearings"), or go to court for their clients. Consider the experience the attorney has in each of these areas. Ask the attorney about his or her experience. You should feel free to ask the attorney for references. You are the one making the hiring decision.

Special education lawyers should be familiar with the local service providers, evaluators, local school districts and the special education administrators in the school districts. They should also have knowledge of local customs and the education optional choices that are available. They should know about evaluations, IEP issues and details, disabilities, behavioral supports, discipline issues, document management, fact investigations, formal and informal negotiations for needed services, and other areas that are common to special education cases. A lawyer should be familiar with the state's due process hearing procedures, hearing officers, mediation process, and the process for filing a complaint with the state. If you think you may go to federal court over a dispute, the lawyer should be familiar with federal court procedures and know about the local courts.

Possible outcomes of the case

Each special education case is unique because each student's particular educational needs are unique. In addition, special education cases may include dynamics that other law cases do not. However, an experienced special education attorney should be able to review your child's education records and give you a range of possible outcomes. A lawyer will help you carefully weigh the advantages and the disadvantages of your case. Do not expect an attorney to guarantee you an outcome.

Ask how the attorney charges for his or her work

You should not hesitate to ask attorneys what their rates are and how they will bill you for professional services. Most attorneys will not begin work without an agreement, sometimes called an engagement agreement or letter. Attorneys should tell you about what you can expect. They should tell you what the extent of their representation is going to be (what they are going to do for you). They should also tell you about how they set their fees; what is expected of you in terms of paying for expenses; whether they work by the hour or whether they will work on a flat rate basis; what the retainer (if any) will be used for; and their terms of engagement.

Understand your role as parents

Parents play a vital role in every special education case. Lawyers cannot make decisions for you. They can give you legal advice and tell you what to expect. But you, as parent of the student, are responsible for making the decisions. You must decide whether to accept or reject an IEP, whether to settle your conflict with the school informally and what the terms of a settlement will be, and other such decisions. An attorney can give you advice and opinions based on that attorney's training and experience, but you make the final decisions about your

child's case.

Find out if the attorney has support staff who will assist with your case

Sometimes, support personnel who work for the lawyer may help with your case and help deliver legal services. This can help keep fees lower.

Support personnel are often paraprofessionals such as paralegals, nurses, former educators, and so forth. Ask the attorney to explain the support personnel's role in your case. If the attorney is using a paraprofessional such as a lay advocate, the attorney should tell you how they supervise the paraprofessional.

---- SUGGESTED QUESTIONS FOR CONSUMERS OF LEGAL SERVICES ----

These are questions you should consider asking at the first meeting:

- What experience does the lawyer have in your particular legal matter?
- Request a preliminary outline of how the lawyer believes the case should be handled and the time frame to complete the matter
- Does the lawyer carry malpractice insurance?
- How can or will you be expected to take part in your case?
- How will your lawyer keep you informed about the status of the matter?
- Ask if the lawyer will provide you with a fee agreement that details fees, expenses, billing and payment.
- Ask for the lawyer's hourly fee (if applicable).
- Ask for an estimate of the lawyer's total fee.

Some lawyers charge for your first consultation, and some do not.

After meeting with the lawyer ask yourself if you:

- Will be comfortable working closely with this person
- Are confident the lawyer has the experience and skill to handle your case
- Understand the lawyer's explanation of what your case involves
- Understand the proposed fee agreement

The Council of Parent Attorneys and Advocates, Inc. offers these suggestions as a public service to parents of children with disabilities. The COPAA Guidelines incorporate information based in part on an article published by the Illinois Attorney General's office and a set of guidelines published by Martindale-Hubble Publishing at http://www.lawyers.com/legal_tips/lawyer_questions/index.php?

Learn more about The Council of Parent Attorneys and Advocates, Inc.

Visit www.COPAA.org