Guidelines ... Documenting, Recording IEP Meetings

MAY A PARENT OR SCHOOL DISTRICT RECORD AN IEP MEETING? ... IDEA does not address the use of audio or video recording devices at IEP meetings, and no other Federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official ... some will claim that there should be nothing that is said at an IEP meeting held to address the educational needs of a child that would cause concern if recorded.

Massachusetts Wiretapping Law

Massachusetts's wiretapping law is often referred to as a "two-party consent" law. More accurately, Massachusetts makes it a crime to *secretly* record a conversation, whether the conversation is in-person or taking place by telephone or another medium. See Mass. Gen. Laws ch. 272, § 99. Accordingly, if you are operating in Massachusetts, you should always inform all parties to a telephone call or conversation that you are recording, unless it is absolutely clear to everyone involved that you are recording (i.e., the recording is not "secret"). Under Massachusetts's wiretapping law, if a party to a conversation is aware that you are recording and does not want to be recorded, it is up to that person to leave the conversation.

When must you get permission from everyone involved before recording?

Twelve states require the consent of every party to a phone call or conversation in order to make the recording lawful. These "two-party consent" laws have been adopted in California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Montana, Nevada, New Hampshire, Pennsylvania and Washington. Although they are referred to as "two-party consent" laws, consent must be obtained from every party to a phone call or conversation if it involves more than two people.

Source: ***Digital Media Law Center Project, Harvard University Berkman Center for Internet and Society***

Certainly, a refusal to allow recording would beg the question as to what one might say if the meeting was not recorded. The reality is that, as educational professionals, our presentations at Team meetings must always be focused on student educational needs and should never include commentary that one would feel could result in problems for the district or individual.

NOTE: any recording done by the district is considered an "educational record"," subject to access by the parents. As such, districts must develop plans to note such "recordings" in the student's record and maintain an appropriate location for storage.

MUST A SCHOOL DISTRICT PROVIDE A TRANSCRIPT OF THE IEP MEETING? ... The short answer is "no" ... although the right to a written or electronic verbatim record applies to due process hearings, it does not extend to IEP meetings. However, if a district chooses to transcribe an IEP meeting, parental access rights do apply.

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MUST A SCHOOL DISTRICT PROVIDE PARENTS WITH A COPY OF ANY RECORDING OR TRANSCRIPT OF AN IEP MEETING THAT IT PRODUCES? ... Yes, any recording or written/electronic transcript of an IEP meeting that is maintained by the school district is an educational record. The district must comply with a parental request to examine the educational record "without unnecessary delay" and may not exceed 45 days from the date request is received for arrangements to share information..

NOTE: Parental rights is one of access only. School districts are not required to provide copies at no cost if the parent is reasonably able to watch or listen to the recording, or read the transcript at the school district location.

DOES THE IDEA REQUIRE THAT THE SCHOOL DISTRICT PREPARE MINUTES OF IEP MEETINGS? ... No. The minutes of an IEP meeting are not technically part of the IEP document, nor does IDEA require their preparation. Certainly, it is recommended that such minutes are kept for the following reasons:

1. To document attendance
2. To record what is agreed to at the IEP meeting and assure it is incorporated in the final version of the IEP
3. Potentially, to counter a parental claim that they were not permitted to be equal participants at the IEP meeting and, moreover, can demonstrate meaningful parental participation by documenting that the parents posed questions to the district or that the district considered the results of an IEE.


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