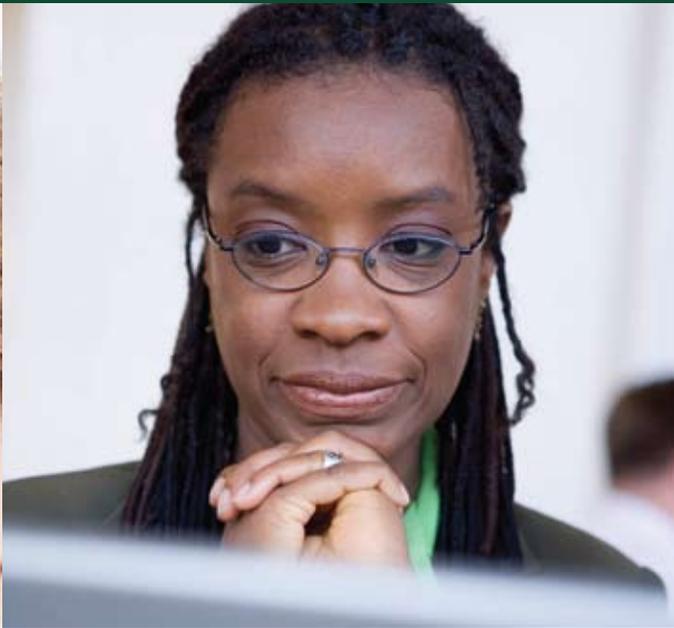


The **FOUR ATE**s of Effective Evaluate, Educate, Com



to get your child's

IN ADVOCATING FOR THE EDUCATIONAL RIGHTS OF CHILDREN,

I have found that legal representation is not always necessary. By becoming educated about their rights and how to effectively safeguard them, parents and older students can avoid the need for formal representation. Even when litigation is inevitable, a prepared client can make my job much easier down the line.

To spread this message, I have come up with four simple rules for parents to keep in mind. I call these rules the Four *ATE*s of effective student advocacy. More specifically they are *EvaluaATE*, *EducATE*, *CommunicATE* and *AdvocATE*. Keeping the Four *ATE*s in mind can go a long way toward maximizing your child's educational opportunities and minimizing obstacles along the way.

Student Advocacy

communicate, and Advocate



needs met

by Robert M. Tudisco, Esq.

Evaluate

A full and comprehensive evaluation is the cornerstone of ensuring that the local school district meets your child's needs. A parent can only advocate for the needs of his or her child if those needs are properly identified and articulated. Parents often contact me and tell me that their local school is not meeting their child's needs. I then ask, "What do you think they aren't doing?" or "What is it that they have failed to determine?" Frequently the answer consists of complaints about the current IEP.

Parents need to understand that they have the right to request a full evaluation of their child from the local school district at no charge to them. If parents believe the school district's

evaluation is either incomplete or erroneous, they have the right to request an independent evaluation by a specialist.

Parents should explore having their own evaluation done by a specialist of their choosing whether the school agrees to it or not. If parents disagree with the rest of the IEP team, there is no better way to support their position than to show, with clinical evidence from an independent evaluation, how the child's special educational needs are not being met. Furthermore, if the positions of the parents and the school district cannot be reconciled, the parents are entitled to request an impartial due process hearing. These hearings are essentially a battle of experts. Not having expert reports and/or

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Effective
advocacy is
about results.
Maximize your
child's potential
by maximizing
his or her
educational
opportunities.

testimony to support your position can be fatal to your argument, and your child will suffer the consequences.

If your local school district doesn't have your child evaluated, it is violating the law. If it won't agree to an independent evaluation, then by all means, have it done yourself. Under the law, if you can establish that the independent evaluation is valid and that the school should have done it, you may be able to recover the cost.

Educate

The next step to effective advocacy is to educate yourself. First, educate yourself on the disability or condition with which your child has been diagnosed. Second, educate yourself on your rights as parents and your child's rights under the law.

As much as most parents wish to help their struggling child in these circumstances, it is troubling to find that many are still in denial or ignorant about their child's condition and needs. It is important to cast aside preconceived notions about disorders and learn about your

child's specific strengths and weaknesses. Learn what his or her educational needs are. Be able to effectively articulate why your child needs particular services to help him or her learn. This is true for any disorder—AD/HD, bipolar disorder, dyslexia, Asperger's Syndrome, depression or any other condition. Read anything and everything you can get your hands on. Find out about local support groups in your area. It is also very helpful to find out about others in your position who have children with needs similar to your child's, and how they have obtained an appropriate education.

Once you understand the disability, educate yourself about your child's rights under the law. Federal as well as state laws and regulations set parameters for what the school district must provide to your child. Learn what these are. Learn about the special education process. Learn what an Individual Educational Program (IEP) is and what is required to be in it. The Office of Special Education Programs (OSEP) in the U.S. Department of Education and its counterpart in your state department of education can provide you

Prepare to Litigate and You Might Not Have To

I often prepare parents for school meetings with a view toward potential litigation. Good preparation and execution often will avoid a need for litigation or even an impartial hearing.

1 Create a paper trail. To avoid hiring a lawyer, you have to think like one yourself. A solid paper trail can be very effective, not only in court, but in dealing with the school district.
➤ Create an organized chronological file of every piece of paper involving your child's history.

Include all evaluations, school records, and correspondence.
➤ Follow up every meeting with a letter that paraphrases your understanding of what took place at the meeting. If your recollection differs with theirs, they will respond in writing. Either way, you are building a record.

2 Have a good working knowledge and understanding of your child's disability. Many parents are in denial about their children's disabilities, or worse, don't take the time to understand things from their children's perspective. This is as important, if not more so, than knowing your child's legal rights.

3 Know what you want going in. You would be surprised how many parents disapprove of what the school district is doing, yet are unsure of what they want. Define your position early and provide a clinical basis for why it is necessary.

4 Diplomacy will get you everywhere. Unfortunately they don't give out magic wands in law school, only diplomas. How the parties communicate with each other determines 85-90 percent of the process. If you go in looking for a fight, you will definitely get one. Egos can do much to hurt a child's chances on either side of the table. They are a luxury you simply cannot afford.

5 Know the law, but don't sound like you do. School districts do not respond well to threats of litigation. Know and understand the process, your child's rights and the law. Keep it in mind as you logically state your concerns, in human terms.

None of these rules will guarantee success, but they definitely will make things easier if you are unsuccessful and have to take the next step. Never lose sight of the real issue, which is giving your child the opportunity to succeed.



ABLESTOCK

with much information. The Parent Training and Information Center in your state and the Parent Resource Center in your school or district are other good sources of information. You can call or write them, or visit their Web sites. Each has an obligation to educate parents and students about their rights and responsibilities in receiving educational services. Take advantage of these resources; they are free and readily available.

Communicate

Once your child has been properly evaluated and you have educated yourself, put the information into practice. Communication is the most important of the four rules. I often see two sides of the spectrum. I meet parents who are disgruntled because they didn't know any better, got bullied by the school district, and are unhappy with their child's performance. On the opposite end, there are those who have had bad experiences and are looking for a fight. Neither is an effective method of protecting a child.

Diplomacy, or the way people speak to each other, is 75-85 percent of student advocacy.

Choosing a Professional



Whether choosing a therapist, educational consultant, or attorney, look for a delicate balance between experience, affiliations, and chemistry. Here are some things you should consider.

- › How long has this person been practicing in this field?
- › What experience does this person have both professionally and personally?
Does the person have a disability? Is he or she also the parent of a child with a disability?
- › Does this professional belong to mental health or advocacy organizations that offer additional support and affiliations?
- › Can this person relate to me, my child, and the situation?
- › Is this professional's style too aggressive or not aggressive enough based upon my personality; my child's personality; my school district and other attorneys?
- › Will this professional testify in court or at an impartial hearing? This is a very big concern because your case will ultimately come down to a battle of the experts. If you can't bring yours in to testify, you are starting out with two strikes against you. Contact your local or national CHADD support group to seek professionals in your area. Many will keep resource directories and have personal experience with these professionals.

ISTOCK

Retaining an Attorney: Unintended Consequences by E. Clarke Ross, D.P.A., CEO of CHADD



DREAMSTIME

Facing our son's transition from elementary school to middle school, and already experiencing less than a fully individualized education plan, my wife and I retained an independently organized IEP team, including an attorney, to work as part of the school system IEP team. This was a positive experience that helped our son.

There were unintended consequences to retaining the lawyer, however, of which parents contemplating similar action need to be aware. These included:

1 Positive, informal, interpersonal dynamics change. After we retained an attorney as part of the IEP team, every time my wife went to the school to help teachers and students (as she had done for years), a school official accompanied her. The school was concerned about what might be repeated to the lawyer. My wife's active volunteerism with the school ceased.

2 The IEP meetings were recorded, which was a positive development. Yet as a result, school employees were more cautious in their observations and recommendations.

3 With a lawyer present, the school district sent a representative to all IEP team meetings. Whenever difficult issues, particularly resource questions, were raised, eyes went to the school district representative. Lots of non-verbal communication occurred. We sensed an unspoken concern with possible precedent being established.

4 Despite a model IEP, it really all depends on how teachers and school personnel implement the IEP. Our personal experience ranged widely, with some excellent implementation and others acting as though the IEP had no real authenticity.

Don't assume that school personnel know what your child needs simply because they are educators or special educators. By the same token, don't assume that they have some vested interest in or gain pleasure from seeing your child struggle. It is important to put personalities aside and do what you must for the sake of your child's education. This is much easier said than done. It is crucial to ensure that your child gets what he or she needs, however. A parent must have the ability to effectively communicate *with* emotion but *not* be a slave to it. There is a very big difference between being effectively assertive and being argumentative.

Do not be confrontational, but do let the school district know what you want for your child and why your child needs it. Let the school know that you understand what your child's rights are, without threatening to sue them. All degrees aside, no one knows your child better than you do. If you understand his or her needs and can document them, you will be successful in the long run.

Advocate

Being a successful advocate does not mean that you will win each and every time. I guarantee that there will be times when a school district will disagree with you even though you followed these four rules. The school district will not win in the long run, however, if you have effectively advocated for your child. Effective advocates prepare for lost battles and make the best of them.

For instance, there is usually no official transcript at school or district meetings. I always recommend that parents follow up the meetings with a letter summarizing what took place from their point of view, in as much detail as possible. A copy of the letter should be placed in your child's file. If the school or district does not respond to the letter, then you may argue later that the school agreed with your assessment of what took place. That could help support your position at an impartial hearing or while litigating at some point in the future. If, however, the school does not agree with your assessment, it will reply with a letter of its own, which should also go in the file. What you are doing here is building a record and controlling the special education process.

Being an effective advocate for your child does not necessarily mean arguing. It means protecting your child's rights and advancing your position, by the most effective means possible. Don't lose sight of your objective by getting caught up in the fight. Effective advocacy is about results. Maximize your child's potential by maximizing his or her educational opportunities. Remember the Four *ATEs* of effective advocacy and hopefully you will minimize the battles along the way. ■



FOR MORE INFO:

For a list of references and helpful resources, visit www.chadd.org/attention/references.