IEP Note Taking

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THE ART OF IEP NOTE TAKING

Agenda

- Common Problems with Note taking
- Case Law Summaries
- IEP Note-taking Tips
IEP notes are not statutorily required.
Common Problems with Note Taking
Unclear Notes

- If your notes are being handwritten or will be transferred from handwriting into a computer program, be sure your note-taker has legible writing.

- The note-taker will be writing quickly to capture all of the required components. However, it is imperative that a reader be able to decipher what was written.
Unclear Notes

- Excessive typos and misspellings can render IEP notes too difficult to understand. They may also undermine the credibility and expertise of the IEP team.
Unclear Notes

- It doesn’t matter how wonderful the notes are if no one can read or understand them.

- If possible, designate one person to take notes and one person to facilitate the meeting.
Verbatim

- This is not a script!
- The note-taker does not need to write down everything everyone says.
- It is not necessary to identify the speaker for all comments.
- Not everything that is said during the meeting is important enough to write down.
If a discussion takes place involving multiple perspectives, it is not necessary to identify all perspectives. It may be sufficient to identify the topic and state who expressed differing opinions.

If anecdotal information is shared, it is not necessary to include the details of the anecdote. It may be sufficient to state that a team member shared an example of a particular issue.
Insufficient

- Summary statements such as “FAPE was offered” or “The team considered a continuum of placement options” do not adequately identify the information that was discussed.
Insufficient

- Boxes and sections on IEP forms typically indicate important information to include. Do not leave sections blank.
Insufficient

- Also, do not rely on the IEP boxes and sections alone to reflect what happened at the IEP meeting.
- For example: If the team held significant discussion regarding whether a student requires ESY, it is far better to summarize the discussion rather than merely checking the ESY box “yes” or “no.”
Unclear Offer of FAPE

- Identify the options considered by the team.
- However, it is paramount that the IEP specifically identify what the team offered. Remember, an appropriate offer of FAPE does not offer choices.
Case Law Summaries
Clark County Sch. Dist. (2009)

- Hearing officer relied on IEP notes which reflected team discussion of parents’ concerns and that some of their suggestions were incorporated into the IEP.
Clark County Sch. Dist. (2009)

- Parents do not have “veto power over any provision of the IEP.” Further, “While the IEP team did not grant everything that the parents requested, the record confirms that there was give and take at ... all IEP meetings.”
Parent alleged predetermination of the IEP because the special education director expressed concerns at the beginning of the meeting that the team would not reach an agreement on the student’s placement.

IEP meeting notes showed the team discussed conflicting recommendations between public and private programs.
Court determined the parent “was a welcomed and active participant in the IEP discussions.”
But…contrast the prior case with *Berry by Berry v. Las Virgenes Unified Sch. Dist.* (2010)

- Unpublished Ninth Circuit decision held that the IEP team predetermined a private school student’s placement when an assistant superintendent stated, “Then we’ll talk about a transition plan,” at the beginning of the IEP meeting.
- Court determined the parent was deprived of an ability to meaningfully participate in the IEP meeting and FAPE was denied even though the placement offered was appropriate.
Fremont Unified Sch. Dist. (2009)

- IEP meeting notes stated that the IEP team discussed the delivery model for student’s speech and occupational therapy services.

- ALJ compared the IEP meeting notes regarding the delivery model to the transcript from the meeting and found them to be inconsistent.

- The school district was ultimately ordered to reimburse parents approximately $24,000.
Parents alleged that the school district met and discussed student’s program and unilaterally changed the IEP after the meeting concluded.

The ALJ compared the draft IEP notes to the final meeting notes and determined that the IEP team agreed discussions would continue after the meeting.
TIPS FOR NOTE-TAKING

- Assign a note-taker before the meeting.
  - The note-taker should be a school district employee who understands the issues involved in the meeting.
  - A parent, parent’s attorney, or a parent’s invited attendee should not take the meeting notes.
TIPS FOR NOTE-TAKING

- Remember that the meeting notes create a written record that survives forever.
- Take notes on each major topic of discussion.
TIPS FOR NOTE-TAKING

- Document IEP team discussions regarding the required elements of an IEP.
- Summarize issues discussed, requests made and District’s responses.
- Be strategic!
TIPS FOR NOTE-TAKING

- Clearly identify who was present at the meeting. Include name and title of all attendees.
- If the meeting is convened without parents, document the attempts to secure parental participation in the meeting notes.
TIPS FOR NOTE-TAKING

- If parents leave an IEP meeting before it concludes, document the efforts that were made to persuade the parents to stay through the conclusion of the meeting.
TIPS FOR NOTE-TAKING

- If any members of the IEP team have been excused, explain that in the notes and reference parent agreement and any written input presented to the team for consideration.
TIPS FOR NOTE-TAKING

Include a statement that the Procedural Safeguards and Parental Rights were provided and related questions were answered.
TIPS FOR NOTE-TAKING

- Identify the reports that were reviewed and considered by the IEP team:
  - Identify who presented each report.
  - Include whether there is agreement or disagreement with reports considered—especially if an IEE is requested!
  - Be sure to include notes reflecting that the team considered any private report provided by the parents and IEEs.
TIPS FOR NOTE-TAKING

- Identify all options considered by the IEP team. Be sure to distinguish the options considered from the actual offer of FAPE.
- Identify what a student will do while mainstreamed.
TIPS FOR NOTE-TAKING

- Clarify elements of offer of FAPE, if necessary
- But don’t contradict other sections of the IEP!
TIPS FOR NOTE-TAKING

- If an offer is merely a temporary diagnostic placement, be sure that is clearly specified in the meeting notes.
- Try not to commit non-participants (providers, teachers, assessors, etc.) to anything unless they have been consulted.
TIPS FOR NOTE-TAKING

- If parents make a request, consider including that request in the meeting notes. Also, include the district’s response. If possible and appropriate, include the elements of prior written notice. Ensure that the request is addressed.
TIPS FOR NOTE-TAKING

- Generally, there is no requirement to identify a particular methodology or curriculum in the IEP notes. If the team feels a student requires a specific methodology and is committing to providing that, the methodology may be appropriate to include in the notes.
TIPS FOR NOTE-TAKING

- Generally, there is no requirement to identify a specific classroom teacher, aide, SLP, OT, APE, or other district provider who will be providing services for a student:
  - Be cautious about personnel decisions.
  - Do not feel compelled to commit to the services of a specific staff member.
  - Unless specifically requested by parents, do not feel compelled to discuss and document staff qualifications in the meeting notes.
TIPS FOR NOTE-TAKING

- If there is a verbal agreement to anything, include that in the notes.
- Proofread the notes prior to finalizing the IEP.
TIPS FOR NOTE-TAKING

- If there are “to-do” items resulting from the meeting, consider identifying those in the meeting notes and clearly specify the responsible party. Be sure to complete all “to-dos.”

- Number all pages of the document, including the total number of pages (i.e., Page X of Y). Otherwise, it is impossible to determine whether you are looking at a complete IEP.