



Guidelines for Choosing an Attorney for Special Education Representation

If you have a child with a disability, you may find yourself in circumstances in which you require assistance in securing services to meet your child's educational needs. In such circumstances, you may turn to an attorney for assistance. Below are some basic guidelines to assist you in selecting an attorney who will be helpful to you.

Select an attorney with special education expertise.

Special education is a complex area of the law, and one not generally taught in law school. Attorneys who assist parents in this field should be well-versed on the various federal and state laws and regulations, as well as the current special education cases coming from the courts.

Select an attorney with special education experience.

The practice of special education can involve simple negotiations, mediation, administrative hearings (called "due process hearings"), or court hearings. Attorneys who assist parents in this field should have experience with all of these areas or at least be able to explain the scope of their special education experience.

Ask how the attorney charges for his/her work.

Special education practice can range from public service attorneys who work for free or at low cost to eligible families to those in private practice who charge for their work. Be sure you understand and get in writing a statement of any and all retainers, hourly fees, or flat fees for representation.

Understand your role as parents.

Attorneys can advise you on the status of the law and about expected outcomes of your case based upon an analysis of the facts and the law. However, you remain the ultimate decision maker with regard to your child's educational planning. You should also get regular updates from the attorney (preferably in writing) as to the status of the case. The attorney should be reasonably available to answer your questions and clarify issues.

Find out if the attorney has support personnel who will be assisting him/her.

Attorneys can be alone in the representation of families (called "solo practice") or can practice with other attorneys or paraprofessionals. If you are likely to come in contact with or get billed for such other people, you should understand this person's role in the case. If the attorney is using a paraprofessional as a lay advocate, you should understand how closely the attorney will supervise this paraprofessional.

Understand how long it may take to resolve the matter.

In some cases, attorneys can negotiate speedy resolutions for their clients; in others, it may take months to reach a resolution. Discuss with your attorney the time frame he/she anticipates in resolving your specific concerns. The attorney should be able to describe the various dispute resolution tactics (negotiation, mediation, due process, or state monitoring) that could apply in your particular case and a reasonable time frame for each.

Select an attorney who understands your child.

Each child with a disability is unique and presents unique educational concerns. Make sure you are confident that your attorney understands the underlying disability and how it manifests itself in your child. If a particular type of disability is new to an attorney, he/she should be willing to educate himself/herself in its particulars.

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