



TIP OF THE WEEK: Use clear language in the IEP

A popular grammar lesson jokes about the difference in meaning between the phrases "Let's eat, Grandma!" and "Let's eat Grandma!" With the omission of a single comma, the meaning of the sentence completely changes. Precision of language is important, and unclear statements can sometimes lead to unintended and even costly outcomes.

Such was the case for the Hawaii Department of Education. By not clearly stating in the IEP of a student with autism what services would be provided by a paraeducator, the Hawaii ED found itself embroiled in five years of litigation that ended with it having to pay the parents for a year of private services. *Howard G. v. State of Hawaii, Dep't of Educ.*, [71 IDELR 150](#) (D. Hawaii 2018).

"Most people participating in an IEP meeting believe that there's an understanding of all the words used and what services will be provided," said Rebecca Tinder, a school attorney for [Bowles Rice LLP](#) in Charleston, W.Va. But that's not always the case, she said. "Those misunderstandings can then turn around and bite you later," Tinder said.

Here are some suggestions on how to be precise in students' IEPs:

- **Use accessible language.** "Attempt to use phraseology that parents can understand and that courts can understand," Tinder said. Parents may have trouble following discussions about least restrictive environment, behavioral intervention plans, and extended school year, especially if they are new to the IEP process. Using everyday language can help enhance their understanding and participation. In addition, using accessible language can help ensure the IEP will pass the "stranger test." That is, someone unfamiliar with the IEP would be able to read it and clearly understand and implement it.
- **Address all of the student's needs.** Identify and articulate the student's individualized needs, Tinder said. Include in the description of the child's present levels of academic achievement and functional performance each disability-related area in which the student demonstrates weakness and provide sufficient detail to allow the IEP team to determine the extent of the child's abilities and special education needs. Once the student's needs have been clearly stated, identify the time, activity, and measurable



outcomes that will be used to assess whether the IEP is reasonably calculated to enable the child to make appropriate progress, Tinder said.

- **Avoid documentation pitfalls.** Many state departments provide templates to help IEP teams ensure that they include all essential components in students' plans, Tinder said. Such templates are helpful, but you must make sure each IEP is individualized. This consideration is especially important when using IEP software. If a computerized IEP form requires team members to select annual goals from a drop-down menu or provides limited space for describing a student's needs, your district could find itself defending a predetermination claim.
- **Communicate effectively with parents throughout the process.** The trouble started for the Hawaii ED in the *Howard G.* case when staff members weren't communicating well with the parents of the student, either inside or outside of the IEP meeting, Tinder said. "If you're communicating well and reaching some sort of understanding, you can potentially avoid these problems," she said.

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June 14, 2018

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