

FAQs about Special Education Advocacy

The following are questions many parents have asked regarding special education advocacy. Each family's situation is different, and the responses here are general in nature; they are not intended to cover every option, nor should they be considered legal advice.

Parents who have not taken the free online [Parent Advocacy Training \(P.A.T.\)](#) course are encouraged to do so, as many things are explained in the course. Parents who have specific questions relating to the special education of their child who is deaf or hard of hearing are encouraged to use the ["Ask the Expert"](#) resource on the AG Bell website.

What is an Individualized Education Program (IEP) re-evaluation, why would my child need one and what is covered?

By law, a child with an IEP must be re-evaluated at least every three years, or earlier when appropriate. The re-evaluation serves two key purposes: 1) to ensure that the child has a continued eligibility for the IEP, and 2) to assist in the development of the IEP. Parental consent to the evaluation/re-evaluation is required unless the parent has failed to respond to repeated requests for consent. According to Federal Regulation 34CFR 300.304, the criteria for IEP evaluation/re-evaluation are:

- Parents must receive notice that describes any evaluations the school district intends to conduct.
- The school district must:
 - Use a variety of assessment tools to assess functional, developmental and academic information, including information from the parents, to determine whether the child is eligible for special education and the contents of the IEP.
NOTE: The school district cannot use any single measure or assessment as the sole criterion.
 - Use technically sound instruments.
- The school district must ensure that:
 - Evaluation materials are selected so as not to be discriminatory on a racial or cultural basis.
 - The evaluation is administered in the child's native language or other mode of communication, and in the form to most likely yield accurate information regarding what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.
 - Evaluations that are used for the purpose for the assessments are valid and reliable.
 - Evaluations are administered by trained and knowledgeable personnel and administered in accordance with the assessment's protocol.
 - Assessments are tailored to assess specific areas of educational need and not merely those that provide a single general intelligence score.
 - Assessments are selected to best assure that if administered to a child with impaired sensory, manual or speaking skills, they accurately reflect the child's abilities rather than reflecting the child's impaired skills.
 - The child is evaluated in all areas related to the suspected disability.
 - The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs.

Is my school district required to provide transportation to my child's special education placement?

Transportation is a related service under the Individuals with Disabilities Education Act (IDEA). Related services are defined as those services (including transportation) that are necessary for a child with a disability to benefit from his/her special education, distance from home notwithstanding. If necessary, the parents may need a professional to put in writing that the child requires transportation to and from school.

There are a number of nuances for situations like this that tie to the particular disability and how it impacts the child. For example, where hearing loss is concerned, there may be a stronger case for transportation for a younger child when the only other option is for the child to walk to school, which might create safety issues (this is just one example). If you have specific concerns or questions about a situation like this that your family is facing, please contact "[Ask the Expert](#)."

We've identified specific accommodations we believe are most appropriate for our child and would like these included in his IEP. The school district doesn't agree with all of them. How do we go about getting those accommodations for our child?

Because the possibilities are nearly unlimited due to individual differences and needs combined with various school districts, this question does not have a specific answer. However, a good place to start is by developing your Best Alternative to a Negotiated Agreement, or BATNA*. A BATNA is the course of action you'll take if the current negotiations with the school district fail and an agreement cannot be reached. A BATNA provides greater flexibility and encourages innovation over a predetermined bottom line. To create your BATNA:

- Brainstorm a list of all possible alternatives for each service, accommodation or placement you would like. You may want to talk with one or more specialists during this process to help consider all of the alternatives.
- Chose the most promising alternatives and expand them into practical and attainable alternatives.
- Identify the best of the alternatives and keep it in reserve as a fall-back during the negotiation. As you identify the best options, be sure to consider the district's alternatives – what does the district want and why? Where might they be willing to give a little? Developing your options AND those of the district is equally important in order for you to gauge the strength of your best alternative in relation to their best alternative.

If you've taken these steps and are still meeting with resistance, are unable to reach an agreement, or if you have very specific questions, please contact "[Ask the Expert](#)" to get personalized assistance for your specific situation.

**BATNA was developed by negotiation researchers Roger Fisher and William Ury of the Harvard Program on Negotiation, and published in their series of books on Principled Negotiation that started with "Getting to Yes."*

How do I advocate for my child if I believe his needs would best be met in another school?

Each child's situation is different and each case should be managed individually. To receive personalized assistance for questions similar to this one, please contact "[Ask the Expert.](#)"

Last year, we agreed to an IEP with a district placement. The District wants to continue this placement for the upcoming school year. We no longer believe this is the best placement for our child and feel that his needs would best be met by placing him in a private school in our area that supports a listening and spoken language outcome. What it comes down to is that we no longer agree with the IEP that we initially agreed to. What are our options?

When parents come to the point where they no longer agree with the placement outlined in the IEP, they should request another IEP meeting to express their disagreement with the proposed IEP. If no changes are made to the IEP, the parents may wish to consider due process, mediation or a unilateral placement. (Unilateral placement is when parents make the decision/placement on their own without the agreement of the school district and then seek reimbursement from the school district for the cost of the placement.) Parents who elect to go to due process should retain an attorney to assist them.

If the parents do not wish to pursue a due process hearing or a unilateral placement, they should work closely with the school district to attempt to get the best services they can for the child. One option might be for the school district to agree to one or more consultations from the preferred private school in the area with a program that supports a listening and spoken language outcome.

If the parents would like to pursue a unilateral placement, there are a number of factors to be considered. Parents who are considering this are encouraged to contact "[Ask the Expert](#)" to discuss their specific situation.

We chose to pursue a due process hearing on behalf of our child. We lost and are now considering an appeal. Is there anything specific we should know?

Generally, appeals are an arduous process and very difficult to win. Unless the hearing officer made an error of law, appeals are not generally successful, as great deference is given to the hearing officer's findings of fact. The appeals process varies widely among various states, and parents who wish to pursue an appeal will need an attorney to help them navigate the laws and processes for their location and situation. Parents who would like to discuss their situation and receive guidance specific for their state are encouraged to contact "[Ask the Expert.](#)"

We continue to struggle with our child’s education team. They are not providing services in the communication mode we want for our child, nor is the communication mode they’re using included in the IEP. For example, the educators continue to use sign language with our child even though we’ve been clear that we don’t want that, and it’s not part of the IEP.

Parents will want to request a meeting with the IEP team to revisit the IEP and discuss why the approach being used differs from what is in the agreed-upon IEP. In the event that the IEP does not specify a mode of communication, it would be presumed that listening and speaking English would be the default – since sign language is a separate language that would need to explicitly appear.

The background, training and experience of the providers in delivering an appropriate program are very important. The parents may wish to encourage the school district to contact another school or provider that uses the approach outlined in the IEP to provide training and consultation to the school district staff.

Parents may also want to ask why the mode of communication not outlined in the IEP is being utilized. Depending on the response, parents may want to take a step back to consider what the educators are saying; for example, if the child is not making the expected progress, it could be that additional strategies need to be employed – perhaps temporarily – to help the child make the desired progress.

It’s important to remember that parents are not obligated to agree to an IEP imposed by the school district and should advocate for an appropriate program and placement. Should the parents continue to feel services are not appropriate for their child, the next steps would include mediation and/or a due process hearing. Parents proceeding with due process (and possibly mediation) should retain an attorney to assist them.

Our child has an IEP, which we do not agree with, and we are moving to a different county to be closer to appropriate services for our child. What are the legal consequences of moving to a different county?

Under federal law, when a child transfers from one county to another within the same state, the receiving county (or school district) must implement the incoming IEP until the IEP team meets and develops their own IEP. This can be problematic when parents disagree with the previous IEP. When moving to a new county/school district, parents should indicate to the receiving county/school district that they disagree with the previous IEP and try to agree on an appropriate program. If they disagree with the new IEP, they may elect to proceed with due process. Parents proceeding with due process should retain an attorney to assist them.

Our child has received appropriate services through early intervention and is now turning 3 and transitioning to preschool. We believe our child's needs will be best met in a listening and spoken language program, but the school district is recommending a Total Communication preschool program. What can we do?

It's important to remember that the school district has an obligation to consider the child's preferred mode of communication. Parents should ask why the school district is making this recommendation. For example, is a Total Communication program the only program they have to offer? Is the child not progressing with the current mode? Why isn't the recommended program designed to meet this child's individual needs? If, after considering these things, the parents still feel strongly that their child should be placed in a program that supports a listening and spoken language outcome, then they will need to assemble documentation about the appropriate services for their child, including the elements of an appropriate program that supports a listening and spoken language outcome, the importance of staff with background, training and experience in providing these services, and the significance of capitalizing on the appropriate training during this period of the child's brain development. Parents will also need support and documentation from professionals in the field and may want to request an independent educational evaluation.

Parents who have specific questions relating special education for their child who is deaf or hard of hearing – whether similar to or different from the questions outlined here – are encouraged to use the ["Ask the Expert"](#) resource on the AG Bell website.