



July 27, 2020

To Whom it May Concern:

Re: Public Comment to OAC Rule Changes Affecting the Education of Children with Special Needs

Disability Advocacy Alliance (DAA) is a non profit organization formed by parents, guardians and family members to protect the rights of individuals with intellectual and developmental disabilities (I/DD). We have concerns about Ohio Administrative Code (OAC) rule changes pertaining to the education of children with disabilities.

OAC 3301-51-05 (C)(5)(a), (b), (c)(i) & (ii)

DAA opposes removal of language that requires parental consent to be obtained to effectuate a change of educational placement for a child with special needs. Parental consent is required for initial evaluations, re-evaluations, and to begin special education services. A change in educational placement is an equally significant event and directly affects the decision-making involved in these other areas. For instance, when parents provide consent for services to begin, they are consenting to a specific set of services. If a child is later moved to a different program without consent of the parent, the initial consent to begin services is in effect overridden. In other words, by allowing a change in placement without parental consent, the State of Ohio has negated the initial parental consent to services, rendering the responsibility of initial consent meaningless.

The Ohio Department of Education (ODE) has suggested this change is being made to comply with federal regulation, but the federal regulation cited by ODE does **not** address the issue of a change in placement. In fact, the federal regulation includes a provision¹ that allows states to expand parental consent requirements to address other activities not covered by federal regulation, such as a change in educational placement. As such, up until this point, the State of Ohio has required parental consent for a change in educational placement. Now, for inexplicable reasons, the State is withdrawing this language and the protection it affords to the children of Ohio with disabilities.

The suggestion that the parent is a part of the IEP team, and therefore, will provide consent through the IEP process is not an acceptable substitute. The IEP team serves the child with disabilities who is being represented by the parent. The parent has the most intimate knowledge of the child's needs, whether those needs are related to the child's education or to the child's mental or physical health. The parent is also the most motivated to ensure those needs are met in the environment most appropriate to the needs of their child. Therefore, it is in the best interests of children with disabilities that the parent is the decisionmaker in the

¹ 34 CFR § 300.300(d)(2) *"In addition to the parental consent requirements described in paragraphs (a), (b), and (c) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that parent's refusal to consent does not result in a failure to provide the child with FAPE."* (Please note that OAC 3301-51-05(c)(i) & (ii) ensures that this federal regulation is met by enabling the school district to proceed if a parent has failed to respond to the district's attempt to receive consent.)

education of their child and consents to all placement. The State of Ohio should not water down parental authority by having that authority subsumed by the dynamics of an IEP team. When a parent's authority to consent to a change in placement is not specifically spelled out in law, it opens the parent up to being pressured or manipulated by IEP team members who may not share the same views and values as the parent, are less knowledgeable about the child's needs, or may not have the best interests of the child at heart. Furthermore, absent the existing language, what is to prevent a school from changing a child's placement before an IEP team meeting can commence? The answer is nothing. ***It is the language that ODE proposes to strike that prevents such an eventuality.***

We urge you to reject amendments to strike (C)(5)(a), (b), (c)(i) & (ii) from OAC. This language should be retained to protect the rights of each child with disabilities to the most appropriate education and to afford Ohio children with disabilities the loving protection of their parents as they access their education.

OAC 3301-51-05 (K)(3)(b)(iv)

We oppose the removal of language that allows parties to a mediation to have input in the selection of a mediator and to agree to the selection. Allowing both parties to provide input on the mediator selection gives all participants more confidence in the mediation process and ensures that the most appropriate person is selected as mediator. As such, the input of both parties will lead to a better result for the child. If this provision is removed, parents will be more likely to question the results of a mediation.

Thank you for the opportunity to comment. Involved parents are the most important ingredient in the education of a child. It is the parent that ensures the child is at school each day and prepared to learn. It is the parent that instills in the child the values that make them appreciate an education and motivates them daily to apply themselves to their greatest abilities. It is in the best interests of children with disabilities for parents' authority over educational matters to be recognized and honored in Ohio law.

Sincerely,



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