



## See notice of unilateral placement as chance to win parents back to IEP

Imagine that an IEP meeting is scheduled for a couple of weeks from now. The parents have just informed you that they have decided to unilaterally place their child in the private school down the street.

You may think your team no longer has to meet, but don't put the brakes on the IEP meeting just yet. It may pave the way for the student's return in the future.

"It's in the district's interest to try to preserve the relationship as best it can," said Pete Maher, an attorney at Shipman & Goodwin LLP in Hartford, Conn. "Parents may have a change of heart, and the private placement isn't what they thought it would be. You want to preserve that relationship so the parents feel comfortable coming back and discussing what FAPE would look like in the district."

School IEP team members should clarify when to conduct an IEP meeting if faced with parents' notice of unilaterally placing their child in a private school. They need to listen to parents' concerns but also take the opportunity to learn about the private placement. Review these questions and answers on key issues involving parents' unilateral placements and IEP meetings.

**Q:** *Should a district hold an IEP meeting if parents unilaterally place or give notice of their intent to unilaterally place their child in a private school?*

**A:** It depends on the context and circumstances, Maher said. If a parent is doing either because they don't believe the IEP is appropriate or providing FAPE, the district should convene a meeting to look into that. "It's likely going to be in the district's interest to [conduct one], especially if one had previously been scheduled," he said.

The district may benefit from the meeting because school team members can ask questions about the unilateral placement, Maher said. They can find out about services the student receives or will receive and see how they compare to the district's. "The district might say, 'That sounds like the same approach or service that we've been providing,'" said Maher. It's important to understand the differences and similarities. By ensuring it offered or offers an appropriate IEP, Maher said the district can defend in the event of a future due process hearing or other form of dispute resolution.

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**Q:** *Can the district try to change the parents' minds?*

**A:** You can meet to try to understand the parents' concerns and try to address them, Maher said. "If there is a concern about the frequency of related services, for example, maybe that's a discussion the team can have. Perhaps there is data to support a revision to that," he said. "[Meeting] will give the district an opportunity to make any revisions it believes may be necessary based on the student's present levels and recent evaluative information. That may make the IEP more defensible if the process moves to dispute resolution."

**Q:** *Does it matter if we just had an IEP meeting?*

**A:** If you recently had an annual IEP meeting, you likely have no new information to contribute to a discussion about revising the IEP you just created, Maher said. You may decide not to call an IEP meeting after the parents give notice about unilaterally placing their child. "But the whole idea behind the IDEA (at [34 CFR 300.148](#) (d)) requiring parents as a general matter to provide 10 business days' [written] notice to the district before unilaterally placing is intended to allow the district to respond to the parents' concerns. A district may not want to waive that opportunity."

**Q:** *How should we document the meeting?*

**A:** If you have an IEP meeting and you make revisions to the IEP or any recommendations with respect to the identification, evaluation, placement, or FAPE, then you need to issue prior written notice, Maher said.

Although not required, you may also want to send parents a letter acknowledging their notice of unilateral placement and inform them that it's at their own cost and risk, Maher said.

[Cara Nissman](#) covers autism, school psychology, and IEP team issues for LRP Publications.

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