



Learning to Negotiate

Learning to Negotiate is Part of the Advocacy Process

Negotiating solutions saves time and money. The techniques and skills used to negotiate special education cases are the same as those used in other situations. By using these techniques, you may find resolving a disagreement with your child's school is easier and more successful.

Four Rules to Guide You

- 1. Organize your records and files.**
- 2. Put your issues and concerns into a 1,2,3,4 outline format.**
State your issues in short sentences. Eliminate or reduce modifiers, adjectives, four letter utterances, etc. Stick to the bare bones.
- 3. Match your evidence and documented supporting facts to the issues. 1(a)(b)(c), etc.**
- 4. Know what it is that you want.**

Be specific!

When you make a statement like "I want my child to have a free appropriate education," this is like asking for a piece of string of unknown or undefined length. Your statement of "I want . . ." must be followed by a "because." The "because" should come from your well-stated issues and your supporting factual evidence. Why? Because any issue that you identify as a grievance is a request that something be done differently than it is being done now.

Techniques & Tactics

1. Listen carefully to the other side.

If you listen carefully enough, you'll find that the other side often gives you good clues about how to solve the problem.

Don't formulate a response until you give the other side a chance to express their thoughts and ideas. There's a saying: "It's rude to continue talking when I am trying to interrupt." If you interrupt while the other party is talking, you'll miss a lot of good stuff.

2. Do not personalize statements made by the other side.

Remember: you are engaged in a process to get the best deal you can for your child. You are not there to argue about whether you are overprotective or nasty. The school has to deal with nasty parents. The school's primary responsibility is to the child despite any parental hostility. The IDEA does not say "free appropriate education if the parents are nice to work with."

3. Learn to outline conversations and recognize educational jargon.

Much of what is said during meetings is informal conversation and doesn't have anything to do with the issue(s) being discussed.



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Train yourself to recognize murky education jargon. For example, if the IEP team says, "The school feels _____," you can ask, "What exactly do you mean by "feel?" If the IEP team uses a term that you don't understand like "response to intervention" or a bunch of letters like "RTI" you can ask them to stop and explain what the term means or what the letters stand for.

What you are after is information about the basis for the school's decision.

4. Try to figure out the best alternative to a negotiated resolution for you and the other side. Some negotiation instructors use a memory device called **BATNA**. **BATNA** stands for **Best Alternative to Negotiated Agreement**.

Try to figure out what your best alternative course of action would be if your negotiation fails to provide the results you want or are willing to accept.

Do the same thing for the other side. (This means you need to know what the other side wants). If your position is that the child needs X service and the school is providing Y service, you have several choices if the school isn't willing to consider option X. One option is to accept Y as offered. You can also ask for a Facilitated IEP or, if that doesn't work, you can request mediation. Another option is to file for a due process hearing.

Another option is to consider what service(s) are available between X and Y that are appropriate and will provide the child with educational benefit based on this child's unique educational needs?

Moving the discussion to finding an alternative between X and Y that both you and the school can accept is likely to be your best alternative in this situation. If you decide that the best alternative is a due process hearing, it is unlikely that you will find a solution that either you or the school finds acceptable.

5. Learn how to deal with different kinds of negotiators, including hardball players.

For parents who must negotiate without formal training and time to practice negotiating skills outside the trenches, here are a few techniques that will give them a better chance for success.

A. Prepare.

- Before you attend a meeting or negotiation at any level, review your documents and notes.
- Outline your concerns and the facts that apply to these issues.
- Do not try to negotiate or argue your position based on your memory of things that have happened in the past. It won't work.
- Know if the facts that are offered by the other side address your concerns. To determine if a fact is important, use the "so what?" test.
 - ✓ Example: You say that the school is providing only 15 minutes of OT services once a week, not 30 minutes sessions twice a week as written in the child's IEP. The
 - ✓ school will offer as fact that the OT person has a hangnail and is working part time until the condition improves.
 - ✓ The "so what" test asks whether or not the fact that the OT person is working part time has anything at all to do with the school's obligation to implement the IEP as it is written.



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B. *Know what you want to accomplish and be specific about the details.*

It does no good to argue a point and not be clear about how and in what manner you want your position to be carried out.

C. *Know what your "throw-aways" are.*

When you review your "wish list," decide which items on your list are not important to your overall concerns or issues.

- ✓ For example, many parents want the school to issue a written apology. If the school has an attorney, this most likely won't happen.
- ✓ One strategy is to stand firm on the apology issue until you see a crack in the dam, then offer to throw the apology issue away in exchange for something you do want - and will benefit the child.

Negotiating is Part of the Advocacy Process

When you organize your documents, evaluate your records, and are clear about your concerns you are better able to communicate with the other side. Being organized, having documentation to support your concerns and being clear in your communications says to the other side that if the case goes to a hearing that the school district will have to deal with a parent who is prepared.

Do not assume that your opponent is an accomplished negotiator. Do not assume that they have done the thorough job of supporting their position with documentation as you have done. Do not assume that their position or knowledge about the issues is superior to yours.

Go into your mediation or negotiation session with confidence. You will find confidence by knowing exactly what you want and having facts to support your position.

Adapted from Learning to Negotiate is Part of the Advocacy Process by Brice Palmer

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