



TIP OF THE WEEK: Preempt retaliation claims in virtual learning

It will be difficult for parents to reach the burden of proof needed to claim retaliation in online learning this year, said Christina Stephanos, a school attorney at Sweet, Stevens, Katz, Williams LLP in Pennsylvania.

Indeed, the actions districts take with respect to remote learning are based on concerns about meeting the Centers for Disease Control and Prevention regulations and the health and safety of everyone involved, she said. "I strongly believe there's a stark difference between ... overcoming of obstacles due to COVID-19 [and] purposeful and deliberate action against a student because the family is advocating on his behalf," she said.

However, parents have a right to advocate for their child's needs. With that in mind, districts can take four actions to preempt any retaliation claims.

1. Prepare thoroughly. To ease the difficulty of document sharing in a virtual meeting, prepare and plan before the meeting occurs, Stephanos said. "Ensure parents have a working copy of the student's IEP and proposed revision in order to discuss them during the meeting," she said. "The draft IEP will help guide the discussion on what the team agrees or disagrees is appropriate for the student."

2. Maintain contact with parents. Call parents to discuss any concerns before the start of the school year, Stephanos said. Then, maintain that contact going forward. If needed, you can reconvene the 504 team at any point throughout the year.

3. Ensure parents time to participate in meetings. Make sure everyone in the virtual meeting has an opportunity to talk, Stephanos said. Have one person manage and oversee the meeting, who will ensure that everyone on the team has had their time to participate in the conversation.

4. Reconvene if needed. Should the meeting go for so long that it becomes hard to stay focused in the virtual environment, continue the meeting another day, Stephanos said. "It's difficult to be on a Zoom meeting for hours," she said.

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