



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 2 2001

Marilyn Shepherd, Ed.D.
Department of Special Education
Fresno Unified School District
1301 M Street
Fresno, California 93721

Dear Dr. Shepherd:

This letter responds to your letter dated May 3, 2001, to the Office of Special Education Programs (OSEP) asking for clarification regarding whether members of the news media should be allowed to attend individualized education program (IEP) meetings under the Individuals with Disabilities Education Act (IDEA). In your letter, you ask whether the Fresno Unified School District may lawfully refuse to allow the media, who have obtained parent consent, to attend IEP meetings; whether it is legally permissible for a school district to allow the media to attend IEP meetings; and the role of state law in determining the involvement of the media in IEP meetings.

Under the IDEA, each local educational agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. Parental consent must be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using the information under Part B of the IDEA. *See* 34 CFR §§300.560-300.577. However, neither the IDEA statute or its implementing regulations specifically address whether members of the news media who have obtained appropriate parent consent under the IDEA may be observers at IEP meetings. Therefore, this is a matter of consideration under California State law. Since this is a matter of individual State law, you may wish to consult the California State Attorney General's Office for an opinion as to whether members of the media who have parent consent may be observers at IEP meetings. However, it is important to point out that IEP meetings are for the purpose of determining the appropriate services for an individual student under Part B of the IDEA. *See* 34 CFR §§300.340-300.350. The legislative history of Part B suggests that "attendance at IEP meetings should be limited to those who have an intense interest in the child." Cong. Rec. §10974 (June 18, 1975) (remarks of Sen. Randolph).

It appears, based on your letter, that members of the news media are not intended to be participants in the IEP meeting process, but are simply observers. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate may be participants in the IEP meeting. 34 CFR §300.344(a)(6). However, members of the news media, as observers, are not there as IEP team members who have knowledge or special expertise regarding the child and his or her specific IEP development in accordance with Part B.

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IEP meetings are an opportunity for each IEP team member, including the child's parents, to decide upon the child's needs, the services to be provided, and the anticipated results. During the IEP meeting sensitive issues about the child may be discussed, such as his or her performance on assessments, results of medical and psychological assessments, and other confidential information about the child that may be important in the development of an appropriate IEP. It is essential to protect the child from dissemination of information which could be potentially injurious to the child and cause a "chilling effect" on IEP team members in the interest of protecting the child because of news media presence.

We hope that this information is helpful. If you need further assistance, you may contact Dr. JoLeta Reynolds or Troy Justesen at 202-205-5507 at OSEP.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Dr. Alice D. Parker
California Department of Education