



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

SEP 14 1999

Gary D. Lander
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Attorneys and Counselors at Law
1000 Tallan Building
Two Union Square
Chattanooga, Tennessee 37402-2500

Dear Mr. Lander:

This is in response to your letter to the Office of Special Education Programs dated April 23, 1999, written on behalf of your client, a local school district in Tennessee. In your letter, you ask whether school board members can attend meetings of the individualized education program (IEP) team. You are particularly interested in whether it is permissible for school board members to attend IEP meetings in general and, particularly, as advocates for or advisors to parents of children involved in those meetings.

In your letter, you describe several factors regarding school board member responsibilities which you suggest may be relevant to your inquiry. While it would not be appropriate for this office to assess the relative weight of the particular factors that you mention, we would like to provide you with an explanation of the requirements of Part B of the Individuals with Disabilities Education Act that are relevant to your inquiry.

Part B affords parents and public agencies the right to include as members of IEP teams, at their discretion, "other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate." 20 U.S.C. §1414(d)(1)(B)(vi); 34 CFR §300.344(a)(6). Paragraph (c) of 34 CFR §300.344 further provides that "[t]he determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party

(parents or public agency) who invited the individual to be a member of the IEP [team]." 34 CFR §300.344(c); see also Appendix A to 34 CFR Part 300, question 28.

Therefore, under 34 CFR §300.344(c), the determination of whether any individual whom the parents or public agency wishes to include as a member of the IEP team possesses knowledge or special expertise regarding the child rests with the party, (either the parent or the public agency), who invited that individual to be a member of the IEP team. While Part B does not address whether school board members could be members of the IEP team, at the discretion of either the parent or the public agency, we believe that there is nothing in Part B that would prohibit either party from including a school board member on the IEP team, so long as the party inviting the school board member to be a member of the IEP team makes the determination that the individual possesses knowledge or special expertise regarding the child, in accordance with 34 CFR §300.344(c).

In determining whether it would be appropriate for a school board member to be a member of the IEP team, both public agencies and parents need to consider whether a particular school board member is concerned with the interests of the child or the school district as a whole. As explained in Appendix A to the final regulations:

Part B does not provide for including individuals such as representatives of teacher organizations as part of an IEP team, unless they are included because of knowledge or special expertise regarding the child. (Because a representative of a teacher organization would generally be concerned with the interests of the teacher rather than the interests of the child, and generally would not possess knowledge or special expertise regarding the child, it generally would be inappropriate for such an official to be a member of the IEP team or to otherwise participate in an IEP meeting.)

Appendix A to 34 CFR Part 300, question 28.

With regard to your inquiry, if the school board member were more concerned with issues of cost or resource availability than with the interests of the child, or did not possess the requisite

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knowledge or special expertise regarding the child, it would be inappropriate for either the parent or the public agency to include that school board member as a member of the IEP team.

We hope that you find this explanation helpful. If we can be of further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss at (202) 205-5507 or (202) 205-9053, respectively. Sincerely,

Patty Guard
Acting Director
Office of Special Education
Programs

cc: Mr. Joseph Fisher
Tennessee Department
of Education