

FAPE = Free and appropriate education

Many people ask me if they need a lawyer to get services for their child in the public schools. My answer is always the same, "if you can afford a great lawyer, I wouldn't hesitate to hire one NOW. If you cannot afford one, hire a great advocate. If you cannot afford a great advocate, prepare to learn a lot, and wait awhile before your child's services are truly FAPE." SPED / FAPE are serious business. That is why there is an entire industry built around SPED services.

Public schools are in an extremely difficult position. FAPE is law. But oftentimes FAPE is expensive. As the caretaker of a child with special needs, is that your problem? No. It is the school's problem. Your focus must be on meeting the needs of the disabled child. You have only 2 places to turn to get your child services - your own pocketbook, or the school district's. Medical insurance will not cover the educational needs of your child (even if the child's issue ultimately IS a medical, or neurological disorder).

The public school district is under pressure from a vast majority of parents or caretakers who have typical children. Children with disabilities are the minority. So, the school has a big angry crowd screaming "services for typical kids" on one side, and a small crowd screaming "services for special needs kids" on the other. The big crowd is louder, stronger, meaner, but not nearly as mad as the small crowd. The big crowd doesn't understand the needs of the small crowd, or why their tax dollars are being used 'for your kid's problem'. But they are very very loud. Who is the school going to try to appease first? Probably the big mad crowd.

There is some federal and some state funding for special needs services. But nowhere near enough to accommodate the needs of all special needs children, particularly those with severe disabilities. We (SPED parents and caretakers) cannot turn to medical insurance to solve our children's problems. We may not have access to money depending upon our circumstances. So we must work with what we have in our court - the law.

The law is on the side of the child with disabilities. There is the Department of Education (DOE) appeals process (via Program Quality Assurance, or PQA) available to anyone who believes their child is not receiving FAPE (<http://www.doe.mass.edu/pqa/>). But the process can take awhile, and **no one** should appear before a judge in a DOE case without a special needs lawyer. As smart as you are, as good as you believe your case may be, you are presenting in the presence of trained lawyers and judges. If you are not a lawyer yourself, prepare to lose.

My recommendation stands: if you can afford a lawyer, and you want to fast

forward your child's services (rather than wait until she or he is no longer in that young stage where brain plasticity is on your side), hire a great lawyer.

I won't name names here, but there are at least a dozen great lawyers and firms in the Boston area. Do an internet search for "SPED lawyer boston". There are many, many of them out there who can get your child what you need. Most of the great ones are completely overbooked. Call me if you want names. Call the Federation for Children with Special needs, too (www.fcsn.org). They can also direct you to excellent advocates. An excellent advocate can help you navigate the laws, understand your rights, etc. But in the end they should not represent you in court. A good advocate will be honest with you when they have done all they can, and tell you when you need a lawyer to access FAPE.

Remember -- you get what you pay for. Don't be surprised if legal fees are in excess of \$400/hour. Is it worth it? Yes. Once your child has FAPE it is very hard to take it away. It's the getting there that is a challenge. Money spent on SPED expertise is money well spent. Remember, EARLY intervention is the key to your child's success. It's never too soon to get FAPE. If you can expedite it with a lawyer, do it.

Good luck!