

Recording Special Education Team Meetings: Three Reasons Why Your School District Should Have a Written Policy

Education Law Notes

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The audio recording of special education team meetings [“PPTs”] by parents and advocates has become a relatively accepted and common practice. Technically, school districts are only *obligated* to permit the recording of such meetings when doing so would enable the parent to effectively participate in the development of the student’s individualized education plan [“IEP”] or as an accommodation to the parent’s disability. (See guidance from OSEP here.) In fact, if a school district wanted to limit the recording of PPT meetings, it could do so by crafting a written policy and ensuring consistent implementation of the policy.

School districts may not be inclined to impose such a policy for a variety of reasons, not the least of which is that prohibiting parents from recording meetings sets a negative tone from the outset. In addition, a policy limiting recording seems archaic in an era where smart phones, tablets and other electronic devices are not only ubiquitous, but enable easy audio and/or video recording of meetings. Nevertheless, simply allowing recordings does not obviate the need for a policy. School personnel are often faced with questions such as these:

- *When a parent records a PPT meeting, should the school also record the meeting?*
- *May (and should) school personnel use a personally owned smart phone or device to record the meeting?*
- *What must be done with the recordings of the meetings?*
- *May individual members of the team object to being video recorded in meetings?*
- *Do individuals who participate via telephone need to be advised that they are being recorded?*

These questions implicate a number of legal obligations toward students, employees and third parties, including the confidentiality of, access to and maintenance of education records — the electronic monitoring of employees – and the privacy of telephonic communications. Recordings of PPT meetings are education records for the purpose of the Family Educational Rights and Privacy Act [“FERPA”]. Therefore, schools must maintain and protect such recordings in accordance with the law, which means that keeping the recording on a school social worker’s personal iPhone would be problematic. Additionally, electronically recording your employees at such meetings may require prior written notice. Finally, in Connecticut, the recording of a telephone conversation without the consent of a party to the communication gives rise to a private cause of action that include damages, costs and attorneys’ fees. Thus, if a parent or another member of the PPT were

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to participate in the PPT meeting by telephone, whoever sought to record the meeting – regardless of whether it was the district or a parent – would first need to obtain the consent of the individual who was participating telephonically.

The bottom line is that developing, publicizing and implementing a written policy regarding the recording of special education team meetings can help to:

1. Ensure that the school district complies with various legal obligations when recording meetings;
2. Get team meetings off to a good start by avoiding difficulties or delays caused by unexpected requests;
3. Enable school personnel to respond to requests by parents and advocates to record meetings with consistency and competence.

Posted in Special Education

Tags: Family Educational Rights and Privacy Act (FERPA)