



Fear retaliation claims from parents? Keep calm and carry on

Section 504's anti-retaliation provision prohibits acts that "intimidate, threaten, coerce, or discriminate" against any individual for the purpose of interfering with any rights the individual has under Section 504. It also extends to retaliatory acts against parents or others who advocate on behalf of a student with a disability. [34 CFR 104.61](#).

"Retaliation is alleged even when there are no facts to support it," said Christina Stephanos, a school attorney at [Sweet, Stevens, Katz, Williams LLP](#) in Pennsylvania. "I think it's thrown out there like, 'Let's make a claim, file everything we can, and hope something sticks.' It's overused and over-alleged."

Don't let the fear of a potential parent-led retaliation claim against your district derail you from doing what you think is best for a student. Take these steps:

- **Take into account parent emotions.** Parents often allege retaliation when a dispute shows that the parents and the district are no longer on the same page as far as what they believe is best for the student, Stephanos said.

"Once the relationship changes between the parents and the district, the parents often become defensive and upset about what's going on with their child -- whether it's founded or not," Stephanos said. And, when the district and parents cannot agree on what the student's education program should look like, emotions can run high, she said. Parents often conflate heightened emotions with claiming retaliation, Stephanos said. The key is to separate the two, she said.

Start with open communication, Stephanos said. Try to meet with the parents and work through the issues. Remain professional and pay attention to your body language and your tone, as simple body language such as crossing your arms or sighing can be misinterpreted when emotions are heightened, she said. Sometimes, simply allowing the parents to vent can be helpful. Let the parents speak, even if you don't agree with what they are saying. Agree to disagree, Stephanos said.

- **Utilize outside resources.** Bring in other individuals to assist with an existing or potential dispute between you and parents before it can lead to a retaliation claim, Stephanos said.

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Call your legal counsel if you need to talk through the situation, Stephanos said. "We often get clients call up and say, 'I think I'm doing the right thing, but I want to make sure.' That's not a bad utilization of their legal resources," she said.

Sometimes you will have a dispute with parents where you are not going to come to an agreement. The question to work on is, "How can we overcome or continue to program for the student?" One option is to bring in another person to assist, one who is part of the child's program and with whom the parents have a relationship, Stephanos said. If you have truly reached an impasse, consider turning to formal dispute resolution options, such as mediation or facilitated IEPs, for help, she said.

• **Remember what constitutes a viable retaliation claim.** You have to be intentionally treating a student differently because of his disability for your actions to amount to retaliation, Stephanos said. "Are you? Likely not," she said. "Most administrators don't typically go into the field to treat a student differently because of disability."

Parse out the specific facts of the situation when retaliation might be claimed. Review the actions taken on behalf of the district, and the actions taken on behalf of the parents. A parent might say, "You didn't allow my child to participate because of his disability, or because I advocated on his behalf." But there needs to be intention, and often parents will misunderstand a district's course of action, Stephanos said.

"We often get complaints for retaliation," Stephanos said. "Not one has been founded because the burden of proof is high."

See also:

- [Don't let retaliation fears keep your district from following procedure](#)
- [Smart Starts -- SmartStart: Section 504 Retaliation Claims](#)
- [Quick Tips for Sound Section 504 Programs](#) edited by Julie J. Kline, Esq.

[Florence Simmons](#) covers Section 504, paraprofessionals, and transportation for LRP Publications.

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