

TIPS ON AVOIDING DUE PROCESS

I. IEP

- Don't give advance notice of an IEP team meeting to an adult student by verbally telling him about and having him write it into his planner. (09.036C)
- Don't complete testing just before the IEP annual review date where the review date is just before the winter holiday, and then agree to extend the review date when the parent makes it difficult to schedule. (09.036C)
- Don't determine to adopt the IEP from a sending district, and therefore not develop a new IEP, while making substantial modifications to the IEP (such as increasing the amount of time spent in the regular education classroom). (09.037C/09.040C)
- Don't have an IEP team meeting before the student begins the school year at a new school and neglect to tell the parent about a special program at the beginning of the year when all students stay in the regular education classroom for the full day so they can participate in community-building activities. (09.037C/09.040C)
- Don't allow most of the members of the IEP team to leave the meeting believing that a determination was made to leave the level of services for the student the same until a new evaluation is completed, and then send out a written notice stating that services are to be reduced. (09.065C)

II. FAPE

- Don't continue to offer the same program of services when the student makes only halting progress towards the IEP goals. (09.023C)

III. EVALUATION

- Don't conduct an evaluation, record scores of more than 1.5 standard deviations below the norm in 2 or more areas of development, and then tell the parent that the scores were in the low range but did not support eligibility. (09.020C)
- Don't keep telling the parent of a high school student that the district will do the triennial evaluation later, and then when the student is a senior tell the parent that the district doesn't do evaluations of a student expected to receive a regular diploma at the end of the year. (09.046C)

IV. PLACEMENT

- Don't determine to place a student with challenging behaviors in a more restrictive setting when the last functional behavior assessment had been conducted more than four years earlier and the student's behavior intervention plan had been reasonably successful until only recently. (09.056C)
- When a student is parentally placed in a residential setting and is not in the parent's district, the parent's district is not required to provide education to the student. Under 20A §5205(2), the student is considered a resident of the district where the *student* resides *if* the superintendent of that district determines that it is in the best interest of the student to do so. The parent may ask the commissioner to review the decision of the superintendent. (09.045C)