



# EDUCATION LAW NOTES

## Federal and Virginia Developments in School Law

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### What Constitutes “Meaningful” Parental Participation in Special Education Meetings?

Parents attend a student special education eligibility meeting accompanied by a lay advocate. They offer an independent educational evaluation (“IEE”) for the team’s consideration, which the team reviews and discusses. The school employees on the eligibility team attempt to solicit questions and concerns from the parents during the meeting, but the parents decline and speak very little. The team determines their child to be ineligible for special education services under the Individuals with Disabilities Education Act (“IDEA”) but does find him eligible under Section 504. The parents file a due process request alleging that the school division failed to provide their child with a free appropriate public education, in large part because it denied them the opportunity to meaningfully participate in the eligibility meeting. Are they correct?

In *Greenhill v. Loudoun County School Board*, on February 20, 2020, the United States District Court for the Eastern District of Virginia held that the parents did meaningfully participate in the circumstances. The trial Court reviewed the findings of a state-appointed due process hearing officer who dismissed the parents’ claims following a two-day hearing in which the parents were represented by a different lay advocate, had the opportunity to make opening and closing arguments, present evidence, and examine and cross-examine witnesses. The Court reviewed four issues: (1) whether the School Board correctly determined that the student did NOT require an

individualized education plan (“IEP”); (2) whether the Section 504 Plan the team developed for the student was appropriate; (3) whether the eligibility committee considered the neuropsychological evaluation provided by the parents and completed by an independent evaluator; and (4) whether the parents were given an opportunity to participate in the meeting and have their input considered.

***The Court observed that while alleging that LCPS did not adequately consider the IEE they offered to the eligibility team, the parents failed even to call the evaluator as a witness in the due process hearing.***

The *Greenhill* Court determined that the Loudoun County Public Schools’ (“LCPS”) eligibility team correctly determined that the student was not eligible for services under the IDEA and that the Section 504 Plan the team developed was appropriate to meet the student’s needs. The Court discussed at some length the requirements of applicable law regarding parental involvement and determined that the parents’ rights were not impinged.

The Court observed that while alleging that LCPS did not adequately consider the IEE they offered to the eligibility team, the parents failed even to call the evaluator as a witness in the due process hearing—despite the fact that several school witnesses and the parents testified about this report. The due process hearing officer specifically found that the student’s mother acknowledged in the hearing that the eligibility team had read the report and took it into consideration.

The parents complained further that the IEE was not read at the meeting but did not explain

to the Court why that exercise was necessary. The *Greenhill* Court was satisfied from the due process hearing record that the team considered the report and that reading the report aloud “would have been unnecessary and an inefficient use of time.” The parents argued that they were not permitted to participate meaningfully in the meeting because they did not understand the IEE or the entirety of the IDEA process. However, the Court emphasized that the law’s procedural safeguards “provide parents an opportunity for meaningful input into all decisions affecting their child’s education. Courts have sensibly rejected, however, an interpretation of the IDEA that would guarantee that parents must fully comprehend and appreciate to their satisfaction all of the pedagogical purposes in the IEP.” Courts have not required perfect comprehension by parents and recognize causes of action for denial of meaningful participation only when there has been a “serious deprivation.”

The *Greenhill* Court also recognized that the parents were assisted by a lay advocate at both the eligibility team meeting and in the due process hearing “who was presumably there to clarify and explain matters.” At an even more commonsense level, the Court observed that the parents had access to the independent evaluator, an expert, and could have at any time asked him to explain his report. “Although plaintiffs had resources available to them to explain processes or diagnoses that they did not understand, it appears that plaintiffs did not utilize those resources and instead placed the burden on the School Board to educate plaintiffs to plaintiffs’ satisfaction. Such a burden goes far beyond the requirement of meaningful participation.”

The parents argued that a federal regulation defines “related services” under the IDEA as including: (1) assisting parents in understanding the special needs of their child, (2) providing parents with information about child development, and (3) helping parents acquire necessary skills that will allow them to support the implementation of the IEP. The *Greenhill* Court determined that “this section does not require the type of education and training that

plaintiffs suggest here, namely assistance with the interpretation of a specific report provided by the parents and assistance with understanding the IDEA more generally. Moreover, this section does not mandate the provision of parent counseling.”

The Court also highlighted that the hearing officer determined that the parents were provided an opportunity to participate in the eligibility meeting and *did participate*. Specifically, the hearing officer found that school employees asked the parents to participate in the meeting, including attempting to solicit questions and concerns from them. Despite these overtures, the parents declined to express their concerns “and did not speak much during the meeting.” The LCPS employees sought the parents’ views on various topics and the parents did not express disagreement with some of the eligibility team’s decisions regarding appropriate areas of focus. The parents were accompanied at the meeting by a lay advocate, presumably for the purpose of

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assisting them.

In response to the parents’ claims that their participation was not meaningful because their concerns were overlooked, the *Greenhill* Court wrote: “The plaintiffs’ views did not carry the day does not mean that they did not participate in a meaningful way....That plaintiffs did not get their desired result does not undermine their participation, as the IDEA does not mandate that parental preferences guide educational decisions.”

The pronouncements in the *Greenhill* decision, while favorable to school officials, are excellent reminders to building administrators coordinating special education meetings to take all appropriate steps to involve parents in decision-making. Administrators should solicit and maintain all information parents believe inform discussions regarding student needs; provide required notices of meetings; directly invite parent participation during meetings, including input from advocates or representatives; and thoroughly document meeting discussions and actions.