



## Appropriate Written Individualized Assistance Dialogue Guide

### ***Overview of the Issue***

The information and support that parent centers provide to families, youth and professionals in writing are subject to discovery in various types of litigation, including litigation between parents; actions against parents by child welfare systems, school districts, or other government agencies; litigation by a parent against the parent center; and litigation brought by a State Bar Association or prosecutor against a parent center for the unauthorized practice of law.

*Litigation Between Parents:* When parents separate or divorce, the issue of the services for their child(ren) with disabilities is often a point of contention between them. When this is the case, one or both parents may want to use correspondence (email or letters) from the parent center to justify their position in the litigation. Either or both parents may legally subpoena any such correspondence.

*Litigation/Court Action Against Parents by Government Agencies:* When a school/school district, child welfare system, or other government agency pursues court action against a parent, or is sued by a parent, the issue of the extent to which parents understand their obligations or have received information or assistance to help them avoid child abuse or neglect/educational neglect, etc., may be raised by the government agency. When this is the case, the government agency may subpoena any correspondence (email or letters) provided by the parent center to the parent.

*Litigation Against the Parent Center:* When a parent disagrees with the information provided to them by a parent center, they may sue the parent center. When this occurs, the parent may use correspondence (email or letters) from the parent center as evidence of the parent center's inappropriate or inaccurate information.

*Litigation by a State Bar Association re: Unauthorized Practice of Law:* When a State Bar Association wants to charge a parent center with the unauthorized practice of law, they may legally subpoena and use correspondence (email or letters) from the parent center to parents as evidence of the parent center's unauthorized practice of law.

### ***Conclusion***

It is imperative that parent center staff who provide training, information, and support to families understand that correspondence (emails and letters) may legally be subpoenaed and used against a parent or a parent center in cases involving litigation between parents, court action between parents and government agencies such as



districts or child welfare agencies, litigation against the parent center for inappropriate or inaccurate information or advice, or litigation by a State Bar Association for unauthorized practice of law. If a parent center provides tailored information to families, youth or professionals, any such tailored written information provided via email or letter should be written narrowly, consistent with prohibitions against the unauthorized practice of law, and reviewed to ensure that it is accurate and up-to-date.

### **Dialogue Starter**

### ***Reaction Questions***

1. In your experience, when is it appropriate to provide written individualized assistance? When is it inappropriate?
2. What are the benefits of providing written individualized assistance?
3. Are there any drawbacks to providing written individualized assistance? If so, what are they?
4. Based on your parent center's evaluation data, is written individualized assistance having the positive outcomes you want?

### ***Application Questions***

1. What procedures should be in place to ensure that written individualized assistance:
  - a. Is of high quality?
  - b. Is timely and up-to-date?
  - c. Is not used to place parents in jeopardy?
  - d. Protects the reputation and standing of your parent center?
2. What specific training do new staff need on written individualized assistance? Current staff?
3. What kind of supervision would be most helpful to staff?
4. What other thoughts do you have about how to ensure that you and your parent center provide appropriate, high quality, written individualized assistance?
5. What questions do you still have about providing appropriate written individualized assistance? What would be most helpful to you in getting those questions answered?

