



November 16, 2020

Committee on the Unauthorized Practice of Law
Attention: Carol Johnston, Committee Secretary
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, New Jersey 08625-0970
Via email to Comments.Mailbox@njcourts.gov

Re: Notice and Opinion 56 released on October 14, 2020

The National Association of the Deaf (NAD) submits its comment on the above referenced notice. We are responding to the question of “Is it in the public interest to permit non-lawyer advocates to engage in those activities that are considered, in Opinion 56, to be the practice of law. If so, why?”

Organization background:

Founded in 1880 by deaf and hard of hearing leaders, the National Association of the Deaf is the oldest national civil rights organization in the United States. Throughout the past 140 years, the NAD has been governed and operated by deaf and hard of hearing board members and executive directors in service of a mission to preserve, protect, and promote the civil, human, and linguistic rights of all deaf and hard of hearing people in this country. The advocacy scope of the NAD is broad, covering a lifetime and impacting future generations in the areas of early intervention, education, employment, health care, technology, telecommunications, youth leadership, and more – improving the lives of millions of deaf and hard of hearing Americans. The NAD also provides advocacy services and resources to families of deaf and hard of hearing children. In regards this area, the NAD established its Education Advocates program in 2012. It is a network of representatives from state associations of the Deaf or national special interests organizations in the Deaf community that are affiliates of the NAD. Every year training opportunities are provided to the Education Advocates, either in-person or virtual, in order to receive certificates of participation and referral status on our website. NAD Education Advocates are not lawyers nor are they trained to be. They are expected to have a background in education of deaf and hard of hearing students, preferring those with relevant degrees.

Response to the question:

In the 8 years since the NAD Education Advocates program has been established, more than 90 different individuals have undertaken the training we provide to assume the role of an Education Advocate. While this role is mainly community mobilizing or legislative advocacy, several have attended IEP meetings alongside parents with deaf or hard of hearing children as non-lawyer advocates. Parents and parent advocates, including those coming from state centers funded by the U.S. Department of Education via the Center for Parent Information &

Resources (CPIR) hub¹ have shared that having a NAD Education Advocate at the meeting was invaluable and beneficial to the meeting. It was stated that the NAD Education Advocate brought key perspectives and information to support the development and implementation of the student's IEP. This furthers the goal of the Individuals with Disabilities Education Act which states, the parent or school may invite an individual to the Team meeting "who has special knowledge or expertise regarding the child".² In the case of a deaf and hard of hearing child, the presence of a trained NAD Education Advocate who is a Deaf person means in addition to a general advocate's perspective, a Deaf adult's perspective on the child's lived experience will be given. For instance, in one situation, a school was refusing to provide interpreters, and the Education Advocate decided to bring a recording of what a classroom sounded like with the child's assistive hearing technology (with numerous gaps in language access), and as a result, the school immediately consented to providing interpreters.

NAD Education Advocates, like many other non-legal advocates via the CPIR are provided training on the appropriate role of an advocate, and they know their job is to focus on the procedure and to assist parents in understanding it from a layperson's role, along with bringing up information that may help the school understand the family's perspective. The IEP meeting is not meant to be adversarial, but instead is to be a collaborative process for decision-making. It is in this spirit that NAD Education Advocates support families in providing experienced and neutral perspectives on the family's experience with the IEP process along with providing needed insight on the common challenges deaf and hard of hearing children face in school. If a case escalates to a due process hearing or other legal challenges, it is NAD's practice that all NAD Education Advocates must refer the family to a lawyer on their own or to request assistance in identifying lawyers that are licensed to practice in their state. In summary, the NAD sees value in having non-legal advocates present at an IEP meeting/mediation as long as the advocates are trained and know their boundaries, and the family gives informed consent.

Thank you for your consideration. For more insights and information, please refer to the attached two articles from our NADMag publication as well as the Odyssey from the National Laurent Clerc Deaf Education Center.

Sincerely,



Tawny Holmes Hlibok, Esq.
Education Policy Counsel
National Association of the Deaf

¹ Center for Parent Information & Resources website,
<https://www.parentcenterhub.org/whatiscpir/> Retrieved, 11/14/2020.

² § 300.321