COPAA

Council of Parent Attorneys and Advocates

Protecting the Civil & Legal Rights of Students with Disabilities and their Families

Avoiding the Unauthorized Practice of Law

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Denise Stile Marshall,
COPAA CEO

Selene A. Almazan, Esq.
COPAA Legal Director

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You’re Not Alone.
At COPAA,
We Fight Together

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COPAA is where the movement for education equity finds its strength.

We unite advocates of all forms to defend the civil rights of children with disabilities and their families, ensuring no one fights alone.

- **27** years providing learning, community, and advocacy to the movement for education equity
- **3600+** Members
- **69%** of members have a child, family member, or loved one with a disability

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A competent special education advocate recognizes their role:

- Assist parents to understand their child's needs
- assist the parents to meaningfully participate in their child's education
- help parents learn how schools can and are required to meet their child's needs under the law, and,
- Discuss available solutions and remedies to educational disputes.

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A competent special education advocate recognizes what is NOT their role:

- Providing Legal Advice
- Engaging in the Unauthorized Practice of Law

What a special education advocate needs to know about the Unauthorized Practice of Law is an often-asked question.

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Advocates:

- are not certified or licensed
- have no enforceable ethics code
- have no statutory confidentiality privilege
- have no required educational or competence standards
- have no formal entity for complaints about their conduct or competence to be submitted

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Although there is not an enforceable code of ethics, COPAA published *The Advocates Voluntary Code of Ethics in 2010*, recognizing that Special Education Advocacy is a profession comprised of a diverse group of people who work in a variety of capacities. An Advocate is expected to have knowledge and expertise concerning special education and its applicable federal and state laws and work within the bounds of these laws. An Advocate protects the civil rights of children with disabilities, their rights to due process, and their rights to equal access to equitable public school education.

https://www.copaa.org/page/Adv_Code_Of_Ethics

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What Constitutes the Practice of Law?

The definition of the practice of law is established by lawmakers and varies from one jurisdiction to another.

Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons.

http://www.padisciplinaryboard.org/for-attorneys/rules/rule/3/the-rules-of-professional-conduct#rule-5.5

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But what are legal services?

Legal Services consist typically of one or more of the following:

- preparing legal documents
- providing answers to legal problems
- appearance in a representational capacity

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Where is the Bright Line

The difference between legal advice and legal information is not precise.

However, the difference can be made on making recommendations or applying the law to the facts of a case.

Stating the law and allowing others to make their own conclusion is generally understood to be providing legal information.

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UPL Claims

UPL claims have generally applied to representation in a hearing, not to attending an IEP with a family.

However, advocates should know that the charge of UPL can come from unexpected places.

Should such a charge or claim be made against an advocate, it is recommended that the advocate consult with an attorney.

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What does the IDEA Say?

Sec. 300.512 Hearing rights
Statute/Regs Main » Regulations » Part B » Subpart E » Section 300.512
300.512 Hearing rights.

Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g),shall be accorded the right to be accompanied and advised by counsel **and by individuals with special knowledge or training with respect to the problems of children with disabilities** (emphasis added)…

https://sites.ed.gov/idea/regs/b/e/300.512

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…except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under State law;

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Indiana

https://legiscan.com/IN/bill/HB1629/2019

Oklahoma

Representation of families in IDEA due process is prohibited, 2006 OK AG 27 (July 19, 2006).

Texas

Tex. Admin. Code § 89.1175, //texreg.sos.state.tx.us/public/readtac

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Tennessee

TENN. CODE ANN. § 23–3–101 et seq. (2006)

California

California Attorney General Opinion 14-101 (Sep 2017))

Virginia

Code of Virginia, Section 22.1-214

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Meanwhile in Virginia…

POWHATAN COUNTY SCHOOL BOARD, Plaintiff, v. Todd SKINGER and Kandise LUCAS, Defendants U.S. District Court, Eastern District of Virginia

Main Points:

- The court ordered the advocate to pay $6,000 in sanctions for violating a previous order and practicing law without a license.
- The advocate claimed her actions were a "related service" under the IDEA, which the court rejected.
- The court emphasized that only licensed attorneys can represent parties in federal court under Virginia law.

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Meanwhile in Virginia… Continued

In Powhatan v. Skinger, advocate submitted five filings containing 42 fake cites

U.S. Judge Robert Payne of the Eastern District of Virginia said in a June 2, 2025 ruling that AI-generated fake citations are an issue that is “becoming far too common” while noting the impact such conduct has on the court and opposing party. “The pervasive misrepresentations of the law in [Kandice] Lucas' filings cannot be tolerated. It serves to make a mockery of the judicial process. It causes an enormous waste of judicial resources to try to find cited cases that do not exist and to determine whether a cited authority is relevant or binding. most are neither,”

(Powhatan County School Board v. Todd Skinger, et al., No. 24-874, E.D. Va., 2025 U.S. Dist. LEXIS 104564)
(Opinion available. Document #46-250716-006Z.)

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Meanwhile in Virginia… (continued)

- The advocate had previously been sanctioned for similar conduct in previous case, where she was found to have a "scorched earth" litigation strategy.

- The court had issued a permanent injunction against Lucas, prohibiting her from participating in IDEA cases.

Matthews,supra (ECF No. 221, at 1).6 The Fourth Circuit affirmed that decision. Henrico Cnty. Sch. Bd. v. Lucas, 827 Fed. App'x 367, 367 (4th Cir. 2020) (per curiam) (unpublished).

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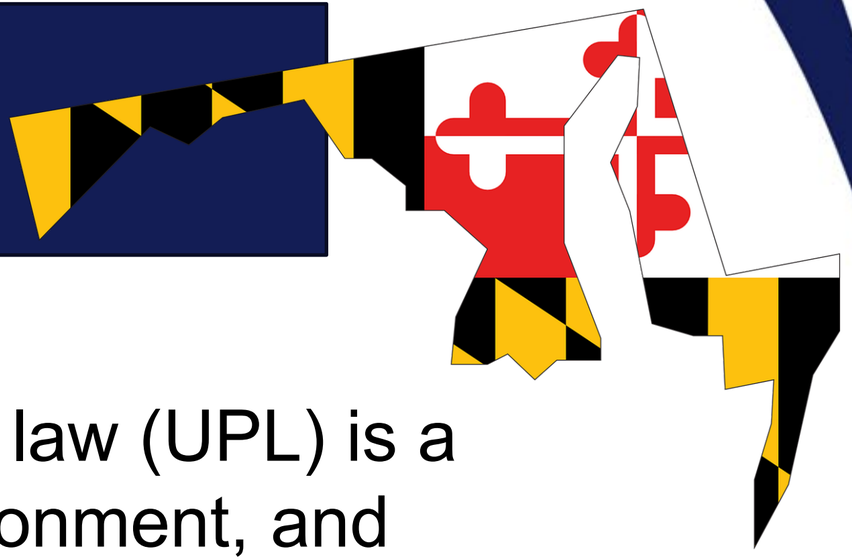
Maryland



In Maryland, the unauthorized practice of law (UPL) is a misdemeanor punishable by fines, imprisonment, and restitution, and it can be enforced by the Office of the Attorney General and the Attorney Grievance Commission's Office of Bar Counsel. UPL involves practicing law without a license, providing legal advice without being a licensed attorney, or assisting others in practicing law in violation of professional conduct rules.

MD Rule 19-305.5

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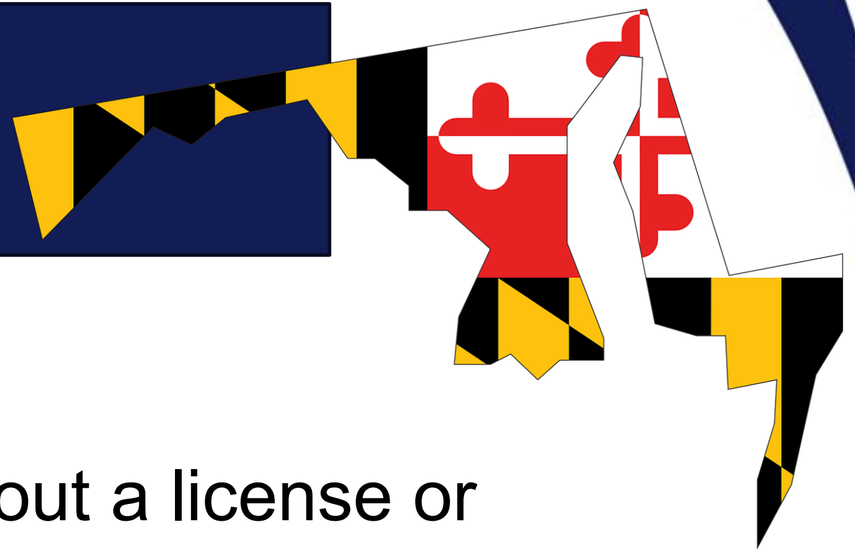
Maryland… Continued



Anyone practicing law in Maryland without a license or whose license is expired is engaging in UPL.

Paralegals and support staff: These professionals cannot provide legal advice, make strategic decisions, or perform other actions that usurp the attorney's role.

MD Rule 19-305.5

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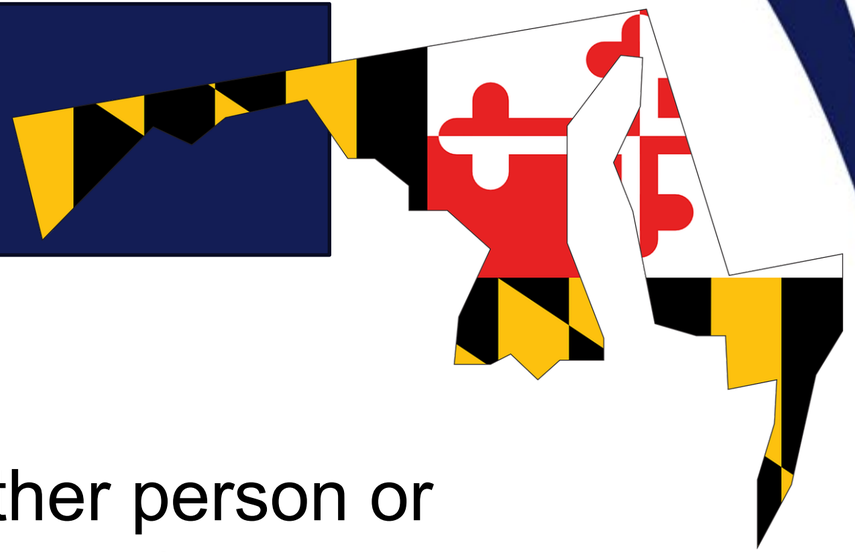
Maryland… Continued



An attorney cannot knowingly help another person or entity engage in the unauthorized practice of law.

Practicing law without a license in Maryland is a misdemeanor that can lead to up to one year in jail and a fine of up to $5,000.

MD Rule 19-305.5

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Maryland… Continued

Maryland Business Occupations and Professions Section 10-601

(a) Except as otherwise provided by law, a person may not practice, attempt to practice, or offer to practice law in the State unless admitted to the Bar.

(b) While an individual is on inactive status or disbarred or while the individual's right to practice law is suspended or revoked, the individual may:

(1) discharge existing obligations;

(2) collect and distribute accounts receivable; or

(3) perform any other act that is necessary to conclude the affairs of a law practice but that does not constitute practicing law.

(c) It is not a defense to a charge of a violation of this section that the defendant acted through an officer, director, partner, trustee, agent, or employee who is a lawyer.

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Notable Cases

- Arons v. New Jersey State Board of Education 842 F.2d 58 (3rd Cir. 1988)
- Marilyn Arons et al., UPL No. 4- 1996, Supreme Court of Delaware
- Florida UPL Committee Investigation of Lilliam Rangel-Diaz

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Consequence to families

If you give parent legal advice and you are wrong they may have exhausted their special education options, and may have no other options to pursue relief and remedy for their child under the law.

https://www.michiganallianceforfamilies.org/wp-content/uploads/2012/08/UPL-2016-01-26-Saunto-2-per- page.pdf

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To avoid UPL, advocates should:

- Know their **state's UPL laws** and past court decisions.
- **Never claim to practice law** or offer legal conclusions.
- Stick to **providing factual, regulatory, or procedural information.**
- Let **parents make decisions** based on the information provided.
- Consider **liability protection**, such as incorporation or insurance.

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Questions

You and your child need more than expertise. You need community.

We've been there. Many of us still are. COPAA gives you more than answers. We give you people. Fellow parents, students, and professionals who will walk beside you, share what they've learned, and help you persist when the system wears you down.

"COPAA is everywhere the voices of students and families need to be heard."

Susan Bruce, COPAA Member

Visit **copaa.org/page/joinus**

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