

# Individual Education Plan (IEP)

The Individuals with Disabilities Education Act (IDEA) is a federal education law that requires that students who are eligible for Special Education receive a free and appropriate public education (FAPE) in the least restrictive environment (LRE).

The Individual Education Plan/Program (IEP) is the written statement that describes the specially designed instruction and services that are needed to meet the individual needs of the student receiving Special Education.

Understanding the various parts of an IEP and how the Special Education process works, including eligibility for services, is a key part of effective advocacy.

In addition to this information packet, other Matrix packets related to this topic include:

- *IEP Toolkit*
- *Getting Organized*
- *Assessment*
- *Advocacy*
- *School Discipline*
- *Behavior Issues and Special Education*
- *Resolving Disagreements*



Our packets, along with other IEP information, can be found at [www.matrixparents.org](http://www.matrixparents.org).

Matrix also offers workshops and has resource libraries in our Novato and Fairfield offices.

# IEP Resources

## Selected Materials

- *All About IEPs: Answers to Frequently Asked Questions about IEPs* (2010) – Peter Wright, Esq. & Pamela Wright
- *From Emotions to Advocacy: The Special Education Survival Guide* (2006) – Peter Wright, Esq. & Pamela Wright
- *Negotiating the Special Education Maze: A Guide for Parents & Teachers* (2008) – Winifred Anderson, Stephen Chitwood, Deidre Hayden & Cherie Takemoto
- *Special Needs Advocacy Resource Book* (2008) – Rich Weinfeld & Michelle Davis
- *Working Together: A Parent's Guide to Parent and Professional Partnership and Communication Within Special Education* (2006) – Technical Assistance ALLIANCE for Parent Centers, [www.parentscenternetwork.org/assets/files/national/Working%20Together.pdf](http://www.parentscenternetwork.org/assets/files/national/Working%20Together.pdf)
- *Transition to Adult Living: An Information and Resource Guide* (2007) – CALSTAT, [www.calstat.org/transitionGuide.html](http://www.calstat.org/transitionGuide.html)
- *Special Education Rights and Responsibilities* (2011) – CASE and Disability Rights California [www.disabilityrightsca.org/pubs/504001.pdf](http://www.disabilityrightsca.org/pubs/504001.pdf)
- *A Parent's Guide to Special Education: Insider Advice on How to Navigate the System and Help Your Child Succeed* (2010) – Linda Wilmschurst, Ph.D & Alan Brue, Ph.D
- *Nolo's IEP Guide: Learning Disabilities* (2011) – Lawrence Siegel, JD
- *Why Johnny Doesn't Behave: Twenty Tips & Measurable BIPs* (2003) – Barbara Bateman & Annemieke Golly
- *Straight Talk About Psychological Testing for Kids* (2003) – Ellen Braaten and Gretchen Felopulos
- *The Complete IEP Guide: How to Advocate for Your Special Ed Child* (2011) – Lawrence Siegel

## Selected Websites

Families and Advocates Partnership for Education, [www.fape.org](http://www.fape.org)

California Department of Education & Special Ed

- Main website, [www.cde.ca.gov/sp/se/](http://www.cde.ca.gov/sp/se/)
- Positive Environment, Networks of Trainers (behavior), [www.pent.ca.gov](http://www.pent.ca.gov)
- California Services for Technical Assistance & Training (CalSTAT), [www.calstat.org](http://www.calstat.org)
- Diagnostic Center North, [www.dcn-cde.ca.gov](http://www.dcn-cde.ca.gov)

National Dissemination Center for Children with Disabilities, [www.nichcy.org](http://www.nichcy.org)

Wrightslaw, [www.wrightslaw.com](http://www.wrightslaw.com)

Disability Rights California, [www.disabilityrightsca.org](http://www.disabilityrightsca.org)

## Special Education Local Plan Area (SELPA) contacts

- **Marin SELPA** 415.499.5850 <http://199.88.112.54/selpa/selpa.html>
- **Napa SELPA** 707.253.6807 [www.napacoe.org/services/school-services/selpa](http://www.napacoe.org/services/school-services/selpa)
- **Solano (upper county) SELPA** 707.399.4468 [www.solanocoe.k12.ca.us](http://www.solanocoe.k12.ca.us)
- **Sonoma SELPA** 707.524.2750 [www.sonomaselpa.org](http://www.sonomaselpa.org)
- **Vallejo SELPA** 707.556.8921, ext. 50157 [www.vallejo.k12.ca.us](http://www.vallejo.k12.ca.us)

# IEP Overview

The **Individuals with Disabilities Education Act (IDEA)** describes how public schools are to provide Special Education for eligible children with special needs from age 3 through 22 (or graduation with a high school diploma, whichever comes first). IDEA is founded upon six core principles:

- Free and Appropriate Public Education (FAPE)
- Appropriate Assessment
- An Individual Education Plan (IEP)
- Education in the Least Restrictive Environment (LRE)
- Parent and student participation in decision making
- Procedures to safeguard the rights of children and parents



Other federal laws protect students with disabilities including **Section 504 of the Rehabilitation Act of 1973** and the **Americans with Disabilities Act**. Students who do not qualify for Special Education may qualify for a “504 Accommodation Plan” (see our 504 Information Packet).

An **assessment** or evaluation determines if a child is eligible for Special Education. The evaluation must use a variety of methods to gather information, such as standardized tests, teacher and parent observations, behavior or attendance records, grades, and work samples. Eligibility is based on two factors: whether or not a student meets one or more of the 13 IDEA eligibility categories (*see pages 12 and 13*) and whether or not specialized instruction or services are needed for the student to benefit from his or her education. Assessments are also used to find out what is needed in a student’s IEP.

The **Individual Education Plan (IEP)** is written by the IEP team at an IEP meeting and is used by the school so your child receives an appropriate education. As the IEP team includes you the parent, it includes your input and needs your written consent. When developing an IEP, important steps should happen in a certain order. There are also required items that must be in each IEP: present levels of performance, annual goals, services, the amount of time your student will not be in general education, parent concerns, and the need for assistive technology, behavior supports, English Language Learning, and special communication assistance.

**What does “appropriate education” mean?** It is an education that provides for reasonable progress and makes it possible for your student to access the general education curriculum.

The **IEP team** must include certain people: you the parent, your child’s teacher, a special educator, staff who did the assessments or someone who has knowledge about the assessments, an administrator who can make decisions about services and programs, and the student (if appropriate). Others who may attend at the invitation of either the school or the parent are those who know or have expertise with your student.

A core part of Special Education law is parents being involved and agreeing to the plan. If a parent doesn’t agree with a part of their child’s IEP, there are methods to resolve disagreement such as Alternative Dispute Resolution (ADR) and more formal State Mediation and Due Process.

# Six Principles of the Individuals with Disabilities Education Act (IDEA)

## **A Free and Appropriate Public Education (FAPE)**

A child's education must be appropriate to meet his or her unique needs. Appropriate is defined in the Individualized Education Plan (IEP) and is based on the unique needs of the child. Appropriate also means the student makes progress.

## **Appropriate Evaluation/Assessment**

A student must have a complete assessment to decide if the student is eligible for Special Education. Assessment is the foundation to write an IEP. Once in Special Education, a re-evaluation is offered at least every three years. Assessments must address any area of suspected need. There must be a variety of assessment methods. Assessment also includes information on development and how a child functions in school. Assessment can only be done with written permission of the parent(s) and must include parent input.

## **Individualized Education Plan (IEP)**

An IEP includes goals, supports, and services to address the student's individual educational needs. It includes statements about how the child will be involved in and will progress in the general education curriculum. The IEP must have parent consent before a service can begin or be changed. Any part of the IEP that has parent consent can be put in place. The IEP is reviewed by the IEP team at least once a year and can be adjusted during the year if needed.

## **An Education in the Least Restrictive Environment (LRE)**

Students in Special Education are to be educated as much as possible with peers who do not have disabilities. The first option the IEP team must consider is educating the student in the general education classroom. The decision must be based upon the child's unique needs. Students should only be removed to separate or more restrictive settings when education in the regular class with the use of supports and services wouldn't work.

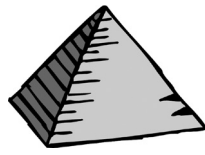
## **Parent and Student Participation in Decision Making**

Parents are members of the IEP team. They give input during the whole IEP process, including evaluation, eligibility, services and placement. Parents must be given regular written reports about their child's progress. Students are to participate in their IEP meetings when appropriate. They must be part of the meeting when the topic is transition to adulthood.



## **Procedural Safeguards**

The law requires that the rights of children and their parents are protected. There are ways for disputes to be resolved, which includes due process. The law also states that students with disabilities and their parents are given the information they need. During the entire Special Education process, schools must get written parent agreement based on the parent being informed. Another safeguard is called Prior Written Notice. This means if a district says no to a parent request, they must give the parent a document explaining why they are saying no.



## IEPs: The Sequence

The Individuals with Disabilities Education Act (IDEA) is the federal Special Education law which requires that students with disabilities in Special Education receive a free and appropriate education (FAPE) in the least restrictive environment (LRE). This law sets up a process with a sequence to make sure that students with disabilities receive an Individualized Education Program (IEP) based on their specific needs, and that they not be needlessly segregated from their non-disabled peers. You will see that the sequence of discussion and decisions must happen in an orderly manner: first assessments, then goals, then services, and only then, placement. Assessment is the base or foundation for the development of the IEP. All of the parts of the IEP are to flow from assessments of the student. Below you will see how the IEP is built from the foundation up.

### 4. Placement

The last decision is where services should take place for the student to make adequate progress on their goals and be in the least restrictive environment appropriate for this student. Discussion of placement happens after agreement is reached on assessment, goals, and related services and should be based on needs, not category of disability. Parents have a right to visit any recommended placement.

### 3. Services

Once goals are written, the team decides the services the student needs to make progress on their goals and be educated in the least restrictive environment. This means being educated to the greatest extent possible with non-disabled peers. The frequency, duration and location of services must be written. Availability and convenience should not determine services; rather, the decision is based on what the student needs to make progress. Needed modifications should be written as well as behavioral supports.

### 2. Goals

Using the assessment information, the IEP team, including the parent, identifies areas of need that the IEP will address so that the student will make progress in the general education curriculum. Beginning with specific and measurable statements of present levels of performance, the team develops annual goals, both academic and functional. These are specific and measurable statements of how the student will perform after one year of Special Education services. Student strengths and interests must be considered in addressing areas of need.

### 1. Assessment

Assessment should occur in all areas related to the suspected disability. It consists of standardized tests, background information, and other data on how a student functions or performs such as work samples and observations. Assessment cannot be discriminatory: Students not speaking English should not be tested in English, visually impaired students should have assessments that do not rely on seeing, etc. For students with language disabilities, their cognitive ability (intelligence) should not be measured with tests that are heavily dependent on language. No single procedure is to be used as the sole criterion of eligibility. Parental consent is required for all assessments. Screenings given to all students by teachers are not considered to be an evaluation.

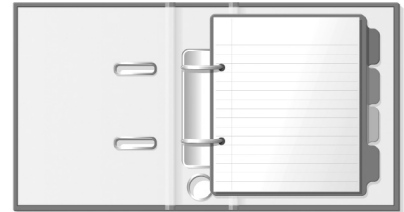
# Advocacy Overview

You are your child's best advocate. Effective advocacy is a learned skill and one that can make a positive difference in services for your child with special needs. Effective advocacy involves these seven skills:

1. Taking care of yourself
2. Learning about your child's special needs
3. Learning about systems and laws that support children and families
4. Preparing, organizing, and planning for meetings
5. Building your communication skills
6. Understanding your perspective and that of others
7. Contributing to creative problem-solving

Ways to build your skills:

- Review our Advocacy and Getting Organized packets.
  - Have someone help you sort papers and organize a binder.
- Use our *IEP Toolkit* to help organize your priorities and questions and to link the information you have to your concerns.
- Work on sorting out your interests versus positions.
- Take care of yourself. When people are tired or have strong emotions, it is hard to think clearly.
- Use books, websites, or trainings to learn key information and skills.
- Keep an open mind. Look for possibilities. Be creative.
- Instead of "Yes, but..." think "Yes, and..."
- Bring in other people to help you with perspective, to problem-solve, or to give you support.
- Ask questions and listen for answers — it's OK to not know something.
- Identify problems/barriers — be a problem-solver instead of blaming or accusing others.
  - Use the facts, not speculations
  - Brainstorm options as a team
  - Find common interests and build upon small agreements
  - Don't rehash the past — focus on what can be done today



It is always important to communicate respectfully, noting good work and efforts. This means being assertive but not aggressive. Effective advocates are respected for their skills in communicating in a way that avoids making others feel defensive. You are building a relationship with those who educate your child. As an equal member of your child's team, you can help set the tone for collaboration while advocating for your child.

# Assessment Overview

## The Foundation of an IEP

An assessment (or evaluation) is needed to decide if a child is eligible for Special Education services or a 504 Plan. Evaluations can also gather information to help revise a child's existing plan. When used for eligibility, assessments must address all areas of suspected disability. To qualify for Special Education, the assessment must find a disability in at least one of 13 eligibility areas. Also, the disability must significantly get in the way of a child's education. If a child is found eligible for either Special Education or a 504 Plan, assessment is the foundation for developing the plan. If a child is not eligible, the assessment can give helpful information for general education staff.

### TYPES OF SPECIAL EDUCATION EVALUATIONS

- **Initial:** to identify if a student has a disability that meets eligibility requirements.
- **Tri-annual:** offered every 3 years after a student is in Special Education to find out if the child still is eligible. It is also used to measure progress and identify current educational needs. If the school district decides no testing is needed as they feel the student is clearly eligible, yet the parent asks for assessment, the school must assess based on parent request.
- **As needed or per parent request:** to guide possible changes to the IEP by finding out how to meet the unique needs caused by the disability, such as the need for speech & language services, assistive technology, occupational therapy, or counseling.
- **Independent Educational Evaluation (IEE):** an evaluation by someone independent of the school district, paid for by the district, if a parent disagrees with a school district evaluation.

### TIMELINES FOR SPECIAL EDUCATION EVALUATIONS

- When a school district receives a written request for an evaluation, it has **15 calendar days** (excluding school vacations greater than 5 days) to answer in writing if it will do the assessment. If you, the parent, make the request verbally, the district is to help you put the request in writing.
- If the district decides an assessment is *not* needed, they must put in writing the information they used to make this decision. Parents have a right to appeal the denial.
- If the district agrees to assess, they must give you a written assessment plan and get parent written consent to go ahead with the plan.
- After the parent agrees in writing with the assessment plan, the district has **60 calendar days** (excluding school vacations of greater than 5 days) to finish the assessment and hold an IEP meeting to go over the findings, decide eligibility, and, if eligible, develop the IEP.

**REQUIREMENTS** – Special Education law describes the procedures and required features of assessments. The Matrix Assessment Packet has more information.

### IMPORTANT CONSIDERATIONS

- Ask for copies of written reports before the IEP meeting so you can check accuracy, develop questions, identify areas of agreement or disagreement, or review the report with others.
- Formal testing is only one method of assessment. A variety of methods must be used (including information from parents) such as interviews, observations, work samples, attendance or discipline records, review of past history, etc.
- Organize what you want to share — write down your ideas, concerns, and observations; bring

these and other important papers to the IEP meeting. See the Matrix *IEP Toolkit*.

- Before signing the consent to assess, make sure all areas of concern are being evaluated. Understand why each test is being proposed and what each test is measuring.

### **ASSESSMENTS FROM PROFESSIONALS IN PRIVATE PRACTICE**

If you provide a private assessment, the IEP team must consider it, but the district is not obligated to use it or agree with it. However, private assessments can be quite useful — call Matrix for guidance.

### **INDEPENDENT EDUCATIONAL EVALUATION (IEE)**

If you disagree with the school's assessment, you can ask for an independent assessment at public expense. Put this in writing. The school district must either give you information on how to get an IEE, or initiate a due process hearing to show that their assessment was appropriate. If a ruling finds the district assessment was appropriate, then the district would *not* have to provide an IEE. Follow the school district's IEE policy before taking any action, or you may end up paying for the assessment.

### **ANOTHER ASSESSMENT OPTION – CALIFORNIA DIAGNOSTIC CENTER**

This center is part of the California Department of Education. Among other services, they provide assessments for districts at the district's request. See [www.dcn-cde.ca.gov](http://www.dcn-cde.ca.gov).

### **IMPORTANT INFORMATION TO CONSIDER IN SELECTING A PRIVATE EVALUATOR**

#### **Types of Evaluators**

A professional's training and level of education is important. Some tests can only be given by a certain type of professional. Know the different types of professionals. For example:

**Psychologists:** educational, clinical and school psychologists, neuropsychologists

**Counseling:** Marriage and Family Therapists (MFT), Clinical Social Workers, Psychiatrists, Clinical Psychologists

**Physicians:** General Pediatrician, Developmental Pediatrician, Child Psychiatrist

**Educators:** General Education, Special Education, Educational Therapist, Educational Consultant

#### **Interviewing Evaluators**

Ask questions before making a choice, such as:

- What experience have they had with children such as yours — what percentage of their practice or how many similar evaluations in a year?
- What is their training and licensing?
- How much time is involved?
- Will the report include an appendix with test scores?
- Will the report include recommendations for interventions?
- Will there be a classroom observation?
- Do they attend IEP or school meetings to review their report?
- Is there a separate meeting with you as the parent?
- How soon can they start and when can they finish?
- Fee structure and charges for phone consultation?

Get references from others, including other parents. Compare each professional and include how they communicated with you during your phone interview.



## Assessments



Parents must give their written consent for an assessment to take place. In order to understand the assessments that will be used with your child, learn about each assessment tool, why it has been selected, the specifics of what will be measured, and how this will be done. If you ask for an assessment and the school says an assessment is not needed, they must give you written notice explaining their reasons for saying no and the data they used to make that decision. It is not OK for the district to just tell you they don't think an assessment is needed.

### Assessment:

- must be in all areas related to the suspected disability — Communication, Health and living skills, Academics, Motor, Perceptual and Social/emotional). Some parents remember these areas by thinking C.H.A.M.P.S.
- includes a variety of measures, as no single score or procedure can decide eligibility or determine a student's program. Examples of different measures or procedures: observation, work samples, interviews, attendance or behavior records, report cards, and group and individual standardized tests
- includes information from the parent, teachers, and others who give services
- includes discussion of strengths as well as areas of need
- describes a child's educational needs and gives information to guide instruction (i.e. if you are concerned that your child can't read long passages of text, a reading test is needed that assesses this and not a test that involves reading single words or 1–2 sentences).
- includes tests given by trained persons in accordance with testing instructions
- must be valid, non-discriminatory (race, culture, native language), and tests must accurately measure what they are designed to measure
- must take into account a child's age, level of functioning, disabilities, and attention
- given to students with impaired sensory, manual, or speaking skills to measure ability must accurately reflect ability rather than reflecting the impairment (i.e. if you have low vision, a reading test with small text may not measure your intellectual ability accurately)
- results given in a written report and explained in a way that you understand. At the time you give your written consent, ask to receive written reports *before* the IEP meeting so you have time to carefully read the information, manage any emotions privately, and be prepared with questions and to be part of the IEP team discussion. While this is not required of districts, it is best practice. Many districts will do their best to make this happen.



# Sample Letter

## Request for an Initial Assessment for Special Education or 504 Plan Eligibility

Parent/Guardian's name  
Address  
City, State, Zip Code  
Daytime Telephone

Date

\_\_\_\_\_(Principal or Special Education Director)

Local School District  
Address  
City, State, Zip Code

Dear \_\_\_\_\_:

I am the parent of \_\_\_\_\_, who is in the \_\_\_ grade at \_\_\_\_\_(school). I am requesting a comprehensive assessment in all areas related to suspected disability to determine whether \_\_\_\_\_ is eligible for Special Education either under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973. I am requesting this assessment because \_\_\_\_\_(be specific). The following interventions and accommodations have already been tried (list interventions such as seating assignments, quiet area to take tests, etc.). However, my student continues to struggle in school with \_\_\_\_\_. If applicable, add: \_\_\_\_\_ has been diagnosed with \_\_\_\_\_ by \_\_\_\_\_(professional).

It is my understanding that I will hear back from you in writing within 15 days of this request. I look forward to hearing from you and working with you and your staff.

Sincerely,

Your name

cc: Include others who you think might need to know about your request

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**NOTES:**

*\*If the district agrees to do an assessment, when you give your written permission to the assessment plan, it is VERY important to put in writing that you would like copies of all written reports prior to the IEP meeting. While the district is not required to do this, it is considered best practice.*

*\*If your child has a health impairment such as ADHD, Tourette's, or sleep apnea, eligibility under the Other Health Impairment category needs to be considered. Make this clear by stating: "I am requesting a comprehensive assessment in all areas related to suspected disability, including the Other Health Impairment category, to determine whether \_\_\_\_\_ is..."*



# Sample Letter

## Request for Special Education Eligibility Assessment (Preschool Age)

Parent/Guardian's name  
Address  
City, State, Zip Code  
Daytime Telephone

Date

\_\_\_\_\_ (Special Education Director)

Your School District  
Address  
City, State, Zip Code

Dear \_\_\_\_\_:

I am the parent of \_\_\_\_\_, who is \_\_\_ years old. I am requesting a comprehensive assessment in all areas of suspected disability to determine whether \_\_\_\_\_ is eligible for Special Education and/or related services under the Individuals with Disabilities Education Act. *(If applicable, add):* \_\_\_\_\_ has been diagnosed with \_\_\_\_\_ by \_\_\_\_\_ (professional).

I am requesting this assessment because \_\_\_\_\_ (be specific and brief; give examples in all areas of development where you suspect delays or have concerns such as speech/language, behavior, social/emotional, cognition).

It is my understanding that I will hear back from you in writing within 15 days of this request. I look forward to hearing from you.

Sincerely,

Your name

cc: Include others whom you think might need to know about your request (intake coordinator of the district, preschool teacher, etc.)

### NOTES:

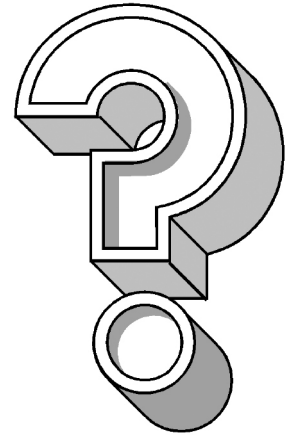
*If the district agrees to do an assessment, when you give your written permission to the assessment plan, it is very important to put in writing that you would like copies of all written reports prior to the IEP meeting. While the district is not required to do this, it is considered best practice.*

*If the district denies your request for assessment, their denial must be put in writing, called Prior Written Notice, and include all the data they used to support their denial.*

## Questions to Ask Yourself When Reviewing Your Child's Assessment

As you read the reports the professionals have written, the following questions may guide you. Many families find it helpful to use a copy of the original report to make margin notes or use different colored highlighters to find information you want to bring up at the IEP meeting.

- **Is the information accurate?** If information is not accurate, highlight that in one color. Ask to have the report corrected. If the evaluator agrees, get a corrected copy and review your child's file to be sure the inaccurate copy is removed. If the district refuses to correct the information, ask for the district's policy on student records. There are legal requirements about parent requests to change student records.
- **Does the assessment "feel" right?** Does it sound like your child? Highlight in another color key areas that you agree with and in another color, areas you disagree with. This can help you quickly find these areas for discussion. If after the IEP meeting you still disagree with an assessment, ask your district for a copy of the policy on seeking an independent educational evaluation (IEE) at public expense. Information on IEE is available through Matrix, in the Parents Rights document given to you by the district, or from the CA Department of Education by calling 800.926.0648.
- **Are inconsistencies explained?** Does the report explain possible causes when there are different findings for the same area? If there is a large variation in scores within one test in different areas, is this noted and the scores are not averaged; or if the scores are averaged despite the variation, is the variation considered?
- **If a weak area is identified, is it further evaluated to better understand the weakness?** This is similar to unpeeling an onion to get to other layers. Dig deeper to understand weak areas.
- **Are scores shown in percentiles as well as standard and/or scaled scores?** Do you understand the scores and how they are reported? Percentiles are often easiest for parents understand. Ask to have scores put in a way you understand.
- **Were multiple methods of evaluation used?** This means the evaluation includes more than test scores and includes items such as teacher observations, work samples, attendance or behavior records, interviews, review of history, reports from other professionals, rating scales.
- **Were all areas of suspected disability evaluated and were your initial concerns addressed?** If not, you could request further evaluation, or you can disagree and ask for an IEE.



# Special Education Categories of Eligibility

California Education Code has 13 eligibility categories and one additional category for children ages 3 to 5. For each category, the disability must adversely affect education and result in needing Special Education and related services so the student will benefit from his or her education. The lack of educational achievement cannot be the result of limited school experience, poor school attendance, a history of inappropriate instruction, or environmental, cultural, or economic disadvantage. Schools provide an evaluation at no expense to parents to decide eligibility for Special Education.

***Note:** Special Education categories are not the same as diagnostic categories used by doctors and professionals outside the education system. A student can have a diagnosis and not meet the criteria for Special Education eligibility that may apply to that diagnosis.*

- **Specific Learning Disability (SLD)**

Option # 1: the discrepancy method requires a severe discrepancy or gap between intellectual ability and certain academic skills. The discrepancy must be caused by a disorder in one or more of the basic processing areas (visual, auditory, attention, cognitive, sensory/motor). The processing disorder results in problems with listening, speaking, reading, writing, doing math. Option #2: The RTI (response to intervention) method evaluates the student's response to increasingly intensive levels of general education intervention, and, if limited response, Special Education may result.

- **Speech and Language (SL)**

Several possible disorders qualify: reduced intelligibility or inability to use speech which significantly gets in the way of communication or attracts adverse attention; disorders of abnormal voice and fluency; expressive or receptive language with scores at least below 7% for age on two or more standardized tests in one or more area: morphology, syntax, semantics, pragmatics.

- **Other Health Impairment (OHI)**

Limited strength, vitality, or alertness due to chronic or acute health problems, including but not limited to asthma, attention deficit or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome.

- **Emotional Disturbance (ED)**

One or more of the following are seen over an lengthy period of time and to a marked degree: inability to learn which cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances in several situations; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems.

- **Autistic-like (AUT)**

A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally seen before age 3. Other traits: engagement in repetitive activities and

stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

- **Intellectual Disability (ID)**

General intellectual functioning is significantly below average with deficits in adaptive behavior which are during the developmental period.

- **Hard of Hearing (HH)**

A hearing impairment, whether permanent or fluctuating, which causes problems with the processing of language through hearing, even with amplification.

- **Deaf**

- **Deaf/Blindness (DB)**

Both hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

- **Multiple Disabilities (MD)**

Combination of disabilities when needs can't be met in programs for only one impairment, i.e. intellectual disability (ID) & blindness, ID & deafness, ID & orthopedic impairment (excludes deaf-blindness).

- **Orthopedic Impairment (OI)**

Severe impairment, including those caused by congenital anomaly, disease or other causes (such as cerebral palsy, amputations and fractures, or burns which cause contractures).

- **Traumatic Brain Injury (TBI)**

Brain injury by an external force or an internal event, i.e. stroke or aneurysm, resulting in partial or total functional disability or psychosocial problems resulting in mild, moderate, or severe impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment, problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Not included: congenital, degenerative, or birth trauma brain injury.

- **Visual Impairment (VI)**

Includes blindness and partial sight that, even with correction, affects a child's educational performance.

- **Established Medical Condition (3–5 years)**

An established medical condition or congenital syndrome which the IEP team decides has a high chance of needing Special Education.

**Note: Early Start Service (birth–36 months, provided by Regional Centers and local education agencies)**

A developmental delay in one or more of five areas:

- for children birth–23 months, 33% in one or more area
- for children 24–36 months, 50% in one area or 33% in more than one area

Or an established risk condition with a high probability of developmental delay.



## Contents of IEP Documents

### Required:

- The **child's strengths** as well as their needs must be considered in developing an IEP
- The **concerns of the parents** must be heard, considered, and recorded
- Present levels of performance** or **baselines** describe current academic skills and how your child functions at school. They include how the disability affects a student being involved and making progress in the general education curriculum.
- Annual goals** are developed based on present levels of performance in either academic or functional areas of need. For example, if a student is having difficulty in math, a math goal or goals would be written for each skill area in math that is getting in the way of progress. If there are concerns with reading, paying attention, asking for help, bothering other students, etc., then annual goals would be written in those areas. Think S.M.A.R.T. as a way to remember that goals must be:
  - Specific
  - Measurable
  - Attainable and using **Action** words
  - Relevant to meet the needs that result from the disability so your student can be involved in and make progress in the general education curriculum
  - Time limited — have a date by which they should be met
 How progress on goals will be measured and dates when progress reports will be given must be included. Written progress reports must be given as often as general education students receive report cards.

- Special factors** — the need for any of these must be discussed at each annual IEP meeting:

- **Behavior:** Does the student's behavior get in the way of his or her learning or the learning of other students? If yes, then a behavior goal must be written or a behavior plan must be developed. *NOTE: if behavior is severe, a Functional Behavioral Assessment (FBA) should be done.*
- **Assistive Technology:** Are devices or services needed? These can be either high-tech, such as mobile device applications, or low-tech, such as pencil grips or slant boards.
- **Special consideration** of the needs of children who have limited English proficiency, have special communication needs, or are blind or visually impaired.



- If needed, **program modifications or supports** for school personnel to assist your child to:
  - make progress on goals and in general education curriculum
  - take part in extracurricular and other non-academic activities
  - be educated and participate with non-disabled peers

*NOTE: At the high school level, it is important to decide if modifications are needed because the use of certain modifications can stop a student from having a diploma.*



- Statement of **accommodations** needed for general education classes and for state and/or district assessments
- Services** are listed that are needed for the student to make progress and benefit from the IEP. These include Special Education and related services such as speech therapy, counseling services, occupational or physical therapy, or specialized physical education. The frequency, duration, and location of those services must be written in the IEP. Services need to be based on peer-reviewed research whenever practicable.
- Least Restrictive Environment (LRE):** Statement of the % of time a child will and will not spend with non-disabled peers
- Transition services planning** must be in effect when the student turns 16 and include specific and measurable post-secondary goals and the services needed to reach these goals. Goals are based upon transition assessments about:
  - Training
  - Education
  - Employment
  - Independent living skills, if appropriate
- When exiting Special Education**, either by reaching age 22 or earning a high school diploma, the school must give the student with a summary of academic achievement and functional performance along with recommendations to assist him or her in meeting post-secondary goals.



## Present Levels of Performance, Goals, and Benchmarks

**Present Levels of Performance (or baselines)** — your child's current skills

- written for each area of need with parent input or student input if appropriate
- includes what your child can and cannot do at the current time
- have several statements about each skill, not just test scores but also statements about what the student is seen doing in school
- describe how the disability affects being part of the general education program
- are specific and measurable — means observable (can you see it, count it, hear it). Not OK: "Sam is below grade level in reading." That is not specific enough.
- can be in an academic or non-academic area — any area the disability impacts that is related to being part of the learning at school
- are the starting point from which to measure progress on the goal

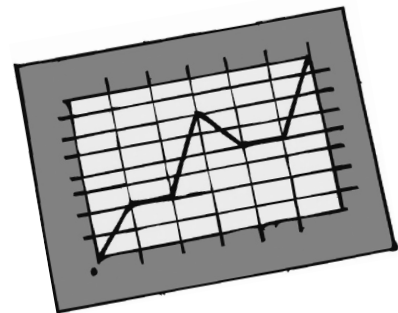
**Goals** — what your child's skills are expected to be at the next annual review

- in any area related to education that the disability affects including behavior, social interactions, study skills, memory skills, self-help skills
- in areas of need that were found through assessments and other information. Assessment information includes observation, work samples, test scores, behavior charts, attendance etc.
- are meaningful and functional (help your child function)
- attainable in one year given specialized instruction
- focus on most important areas of need
- allow the student to be involved in and progress in the general curriculum
- are specific and measurable: what the student will do, how, where, when and to what degree — Not O.K.: "Sarah will improve her writing skills." That goal is not specific.
- include clear statements on how progress will be measured
- are written clearly so anyone can describe the skills when the goal is reached
- include information on when progress reports will be provided to parents.

Remember S.M.A.R.T. goals are **S**pecific, **M**easurable, **A**ttainable, **R**elevant, and **T**ime limited

**Benchmarks** — short-term steps to reach each annual goal

- only required for students with significant cognitive disabilities
- are measurable and specific
- at least two per year per goal



## Instructional Services

Most students in special education have instructional services as part of their IEP. These services are given by a special education teacher. Instructional services are specialized to meet the unique needs of the student. These services are listed on the services page in the IEP. The frequency, duration and location for the services must be noted.

Some students have instruction given by a special education teacher who teaches in the general education class. This is sometimes called "push in" service. If instructional services are not given in the general education classroom, then this called "pull out" service. The student is pulled out of the general education setting for instructional services. The IEP must state how much instructional time is "push in" and how much time is "pull out". Parents must give consent to the location of services. In order for a parent to decide whether to consent or not to the location, frequency and duration of services, these must be clearly stated in the IEP.

The duration, frequency and location of instructional services are based on the unique needs of the individual child:

- Assessment information identifies needs
- Needs determine goals
- Goals determine services



## Extended School Year (ESY)

To be eligible for ESY, the IEP team must decide if this is needed. The decision is based on whether the student will lose so many skills without instruction during the summer that it would take significant time to regain those skills once the regular school year begins. This is referred to as "regression" and "recoupment".

ESY services are programs and services that address the same goals and objectives that are worked on during the school year.

## Related Services

Related services mean developmental, corrective, or other supportive services, including transportation, **that a child needs to benefit from Special Education**. Some children need related services in order to meet the goals in their Individualized Education Program (IEP). Related Services may include:

- Speech-language and audiology
- Recreation
- Adapted physical education
- Specialized vision or hearing
- Interpreting
- Counseling
- School health or nurse
- Physical or occupational therapy
- Orientation and mobility



**NOTE:** *In 2010, California law no longer mandated County Mental Health as the agency to provide school-based counseling services. School districts are responsible for ensuring that counseling services are provided as decided by the IEP team based on student need.*

Related services are not limited to the above. If a service is necessary for a child to benefit from his or her Special Education program, the service must be given.

**Who provides related services?** Qualified professionals provide related services in the area of their expertise. Assistants who are trained and supervised may also assist in giving related services.

**Who decides which related services are right for a child?** The student's IEP team, including the parent, decides which services are necessary based on information from the assessments. *Note: when considering if speech/language is needed as a related service, this is not decided based on speech & language eligibility criteria & scores for Special Education. It is decided based on need.*

**How are related services written into the IEP?** The IEP team writes goals for each service. The IEP describes the type service, how often, how long and where that service will be delivered. Related services may be provided in group or individual settings, in the regular education classroom, or in a separate setting. They may be provided in all educational settings to support Special Education in the least restrictive environment.

**Who pays for related services?** Related services must be provided at no cost to a child's family. The school may ask for parent consent to bill other private agencies, such as a parent's private insurance.

**What if the related services in a child's IEP are not being provided because there are staff shortages?** The school district must provide the related services in the child's IEP. The district needs to make up any missed services. They may contract with providers outside the school district if there are staff shortages in the school district.

# Accommodations and Modifications

Accommodations and modifications are changes in instruction, testing, or assignments that help the student in be part of the general education curriculum. They must be written in the IEP or the 504 Plan. Having too many accommodations or modifications may be overwhelming to both teacher and student. It is often recommended to decide the top items that will have the greatest impact and make sure those items are being used. Accommodations or modifications need to be considered for each subject or setting as needs may change in different classes, grades, or schools.

There are important differences between an accommodation and a modification:

**Accommodations** allow the student to access the same grade-level curriculum as general education students without changing that curriculum. What is changed is the way the student accesses the curriculum — changes in time, format, setting, schedule, and/or presentation. For tests, it does not alter what the test measures. For example, a test to measure a student's ability to decode words must be read by the student rather than having it read to them, as reading it to them would be a modification. An accommodation for a reading test would be giving a quiet space or longer time to read.

**Modifications** change the grade-level curriculum standard or what a test is supposed to measure. The student is expected to master part of a concept or standard or is given an alternate assignment that is easier. Examples: allowing a student to use a calculator in a math test when other students are not allowed to do so, or using a lower grade level text or test. If a student needs modifications this should be made very clear to the parent, as it may result in the student not getting a high school diploma.

Ideas on what accommodations or modifications a student needs should be based on assessment information and discussion with the student and staff. If a student refuses an accommodation, it clearly won't work. There are many common accommodations, and the IEP team should also be creative and think out of the box to come up with ideas that work for the individual student.

## EXAMPLES OF ACCOMMODATIONS:

### Classroom Environment

- Keep workspaces clear of unrelated materials.
- Provide a computer for written work.
- Seat the student close to the teacher or a positive role model (preferential seating).
- Use a study carrel. (Provide extras so that the student is not singled out.)
- Seat the student away from windows or doorways.

### Daily Work and Homework

- Extra time for assignments
- Shorten assignments
- Number and sequence the steps in a task
- Show a model of the end product
- Provide interim grade or check-in
- Weight daily work higher than tests



### Tests

- Go over directions orally
- Teach the student how to take tests (e.g., how to review, to plan time for each section)
- Permit as much time as needed to finish tests
- Allow tests to be taken in a room with few distractions
- Have test materials read to the student and allow oral responses as long as reading or writing are not being tested
- Divide tests into small sections of similar questions or problems
- Use recognition tests (true-false, multiple choice, or matching) instead of essays

### Behavior

- Arrange a check-in time to organize the day
- Pair the student with a student who is a good behavior model for class projects
- Use nonverbal cues to remind the student to refocus on their work
- Provide positive reinforcement of good behavior
- Increase the frequency of reinforcements



### Math

- Group similar problems together (e.g., all addition in one section).
- Provide fewer problems on a worksheet.
- Require fewer problems to get passing grades.
- Use enlarged graph paper to write problems, helping student keep numbers in columns.
- Provide a table of math facts for reference.
- Tape a number line to the student's desk.
- Read and explain story problems, or break problems into smaller steps.

### Handwriting

- Use worksheets that require less writing.
- Use fill-in questions with space for a brief response rather than a short essay.
- Provide a "designated note taker" or photocopy of other student or teacher notes. This needs to be arranged by the educators and not by the student.
- Provide a print copy of any assignments or directions written on the blackboard or allow use of smart phone to take photo
- Omit assignments that require copying, or let the student use a tape recorder to dictate answers

For other accommodations: [www.fape.org](http://www.fape.org).

*Remember: It is important to include the older student in discussion of what is needed. When a student offers what he or she thinks would help, that creates ownership and builds self-advocacy skills.*

Check in occasionally to be sure accommodations and modifications are being used and are working. If you have concerns, put a request in writing for an IEP meeting (or a 504 meeting).

## Least Restrictive Environment (LRE) and Placement

Least Restrictive Environment is the requirement in federal law that to the maximum extent appropriate, children with disabilities are to be educated with children who are not disabled. It also means that placement in separate or special classes is appropriate only when supports in the general education class are not enough.

How does the Individual Education Plan (IEP) team decide what the least restrictive setting is?

- The Individuals with Disabilities Education Act (IDEA) has a strong preference for educating students with disabilities in regular or general education classes with aids and services.
- The student's placement in the general education classroom is the first option the IEP team must consider.
- The IEP team must consider aids and services, program modifications, and supports for school staff that would allow a student to be involved in and make progress in the general curriculum. This also includes extracurricular and non-academic activities.
- Before a student is educated outside of the regular educational environment, the IEP team must consider the full range of aids and services that, if provided, would make it possible for the student to be in the general education setting.
- Districts must have a full range of options to meet student needs. These include general education class, general education class with resource, general education class with related services, Special Education classes with related services as needed, non-public schools, and, finally, instruction in non-class settings such as home or hospital.
- The IEP must have a statement of the % of time a child will and will not be with non-disabled peers in the classroom and in out-of-classroom activities.
- Even when a child is not placed in a general education classroom, the district must take steps to maximize interaction with non-disabled peers as appropriate for the child's needs.
- Four factors must be considered when a district makes a placement offer, balancing:
  1. educational benefit of general education and Special Education
  2. non-academic benefit of interacting with peers without disabilities
  3. the effect on teachers and other students
  4. the cost of placement in general education compared to Special Education

# Assistive Technology and the IEP

One area that requires discussion at each annual IEP meeting is the student's need for Assistive Technology (AT).

## WHAT IS ASSISTIVE TECHNOLOGY?

AT is any technology that can assist your student to be part of the general education curriculum. AT helps your child go around or bypass a problem. This includes devices, software, and hardware. It may be a computer program that reads written text to your student, a device that assists your student in communicating, or a simple pencil grip or slant board.

## ASSESSMENT

Your child's need for AT is decided through assessment information. Do you feel your child cannot do or learn something because of his or her disability, and you think technology could help? If the team needs more information to decide this, ask for an assessment to see if it would benefit his or her education. As always, put your assessment request in writing. If the district decides that an AT assessment or services are not needed, they need to put the reasons they say no in writing. Keep in mind that each year the need for AT must be discussed since the curriculum, your child, and technology change from year to year.

Having AT doesn't mean your student doesn't still need instruction in the area that is getting in the way of learning. AT can help your child go around an area of limited skills, sometimes for a short time until your child learns the skill. For some students, AT is always needed.

## WHAT AT WOULD HELP?

To learn about options, search the web, visit an assistive technology center, and talk with others who have experience in this area. For AT to be of educational benefit, students must be able and willing to use it. Some school districts, county SELPAs, or county Offices of Education have Assistive Technology Centers where a child can try out a device or software. Sometimes several items need to be tried to find the one that is most appropriate. Additionally, it is essential that staff have training on using and supporting your student with the technology. This needs to be documented in the IEP.

## RESOURCES:

Family Center on Technology and Disability, [www.fctd.info](http://www.fctd.info)  
Alliance for Technology Access, [www.ATaccess.org](http://www.ATaccess.org)



# Behavior and Special Education

## An Overview

When the behavior of a student with an IEP gets in the way of his or her learning or that of others, the IEP team must develop behavior goals, supports and services or a behavior plan. Behavior plans are not punitive. They are positive plans describing how the school will support positive behavior through instruction or changing the environment. Behavior plans also describe how often the behavior happens, how long it lasts, and how intense it is. Triggers for the behavior and the purpose the behavior serves also are described.

### Examples of Behavior That May Get in the Way of Learning

- not completing assignments or turning in work
- outbursts (talking out of turn, screams, swearing), aggression (pushing, kicking)
- not being able to pay attention
- poor attendance
- leaving classroom/school without permission
- using materials dangerously (putting chairs on tables, eating crayons)



### What Can Behavior Be Saying?

Understanding difficult behavior is challenging. Behaviors serve a purpose: to either avoid something or to get something. Because of disabilities, some students can't manage their environment without behavior issues. Challenges in the school environment may be academic work that is too hard or too easy, settings that are over-stimulating or under-stimulating, bullying, or peer pressure. Finding out what causes the behavior is key in deciding what skill instruction is needed to learn positive behaviors, or how the environment might be changed so the behavior is less likely to happen.

### Levels of Support

The team may first develop an IEP goal for the behavior. If the behavior continues even with the goal, then a Behavior Intervention Plan (BIP) is written. If behavior is serious and is getting in the way of progress with IEP goals, and behavior strategies already in the IEP have not worked, more must be done. A timely and appropriate functional behavior assessment would be next and information from that used to revise the BIP.

### Link to Home

When students are struggling with behavior at school, a coordinated plan for home/school communication is important. Provide incentives or ways at home to reinforce positive school days.

### School Discipline

When behaviors result in school discipline, Special Education regulations describe when and how students can be disciplined for their difficult behaviors. Adding or reviewing an existing behavior plan is key.

*NOTE: Special Education behavior plans are not behavior contracts, which are sometimes used in general ed; they tend to be punitive and put the responsibility on students to change their behavior on their own.*



# School Discipline Overview

Students with disabilities who have an IEP might have behavior problems that result in school discipline. Some students may not understand what can happen as a result of their behavior. They may not be able to manage their behavior well enough to stay within the school's behavior standards.

Special Education laws and regulations spell out requirements for discipline. They also spell out what an IEP team should do to provide positive behavioral supports to prevent problems from getting worse and resulting in discipline. When students with disabilities break school rules, however, they can be treated the same as their non-disabled peers, up to a certain point. If a student is not yet in Special Education, yet the school has knowledge that your child has disabilities, protections may also apply.

## Suspensions

Students in Special Education cannot be suspended for more than 10 days as a change in their special education placement can't happen without an IEP meeting.

If there is a suspension, it might be wise to ask for an IEP meeting to discuss what can be done to prevent future suspensions. If there isn't a behavior plan, one might be added. If there is a behavior plan, discuss adding more supports to change the behavior that resulted in a suspension. Maybe your student would benefit from Special Education counseling to help with strong emotions that cause problem behavior.

## Expulsions

Certain behaviors directly result in possible expulsion. A student in Special Education can be expelled the same as students in general education, depending on the answers to two questions that must be answered at an IEP manifestation determination meeting. This meeting must be held within 10 days of the decision to expel.

## Manifestation Determination Meetings in Special Education

If a student will be suspended for more than 10 days or if a student is up for expulsion, there must be a special IEP meeting called a "manifestation determination." As a member of the IEP team, parents attend this important meeting. At this meeting, the IEP team discusses and answers two questions:

- Was the behavior caused by or was directly related to the student's disability (is it a "manifestation" of the disability)?
- Was the behavior a direct result of the district not following the IEP?

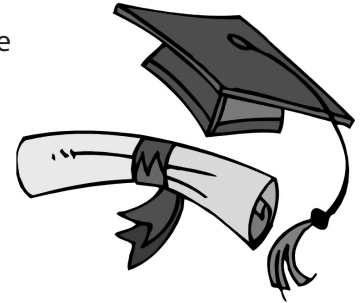
If the answer to either of the above questions is yes, the student cannot be suspended longer than 10 days or expelled. The IEP team must decide what changes are needed in the student's IEP to support the student.

If the behavior is determined to not be a manifestation of the student's disability, then the student will be disciplined just as any other student.

The laws and rules regarding the discipline of students with disabilities are complicated and can feel overwhelming. However, there is a process and sequence that must be used by schools and the IEP team. Keep in mind, if you disagree with a decision, you can appeal. This should be done in writing and as soon as possible.

## Transition from High School to Post-Secondary

Some students who receive Special Education will graduate with a diploma at age 18 or 19. At that point, Special Education services end. Other students may finish high school with a certificate of completion. This means they have completed their own course of studies at the high school level and may continue in public school post-secondary programs through the semester in which they turn 22.



Public school programs have options for students who do not receive a diploma and remain in school past high school. *NOTE: Students who receive a certificate of completion may take part in all graduation activities including grad night, graduation ceremonies, etc.*

The decision to work toward a diploma or a certificate of completion is important. Talking about this is best if started in middle school. The decision is finalized during high school and must be written in the IEP. Questions about taking standardized tests (those for all students) and the California High School Exit Exam must be discussed. A student must pass specific courses such as Algebra in order to earn a diploma.

All students in Special Education must have a Transition Plan as part of their IEP the year they turn 16. Transition services are:

- a coordinated set of activities
- results-oriented
- focused on improving academic and functional achievement for life after high school

Plans must address a student's needs and consider strengths, preferences, and interests. The plan must have appropriate and measurable post-secondary goals that are based on assessment of the need for:

- training
- education
- employment
- independent living skills, if this applies

Goals must include statements on what skill is needed, who will provide the service to teach the skill, and how often the service will happen. High school activities that are part of the transition plan can include instruction, related services, community experiences, a job evaluation, practice with skills for employment or adult living.

Transition planning is not one meeting or one document. It takes place over time. It involves the student and outside agencies and resources as appropriate. The relationship between the student's high school activities and post-school outcomes needs to be clear and meaningful.

Finally, a "summary of achievement" (both academic and functional) must be given to the student when they exit Special Education with a diploma or when they reach age 22. This summary must include recommendations on how to assist a student in meeting their postsecondary goals.

# School Records

Accurate and complete records are critical for both parent and school. In reviewing your child's records, you may find that you are missing a document or the school is missing something from your records. School records are so important in planning and serving students with special needs that these questions have been addressed in federal law. The law about school records is called the Family Educational Rights and Privacy Act (FERPA). For more information, ask for your district's school records policy.

## Where Are School Records Kept?

There are several types of records that may be found in different places: a cumulative file (cum file) is kept at the school, a confidential file often is kept by a Special Education staff, and a compliance file is kept at the school district's office.



## How Can I See or Get a Copy of School Records?

Call or make a written request to the school principal or Special Education director. You may request copies of the entire file. The school may ask you to pay the copying costs, but this must be waived for financial hardship. You may also review the files at the school and only make copies of those documents you need. California law states that schools must give you access to your child's records and/or copies within **5 days** after getting your written or oral request.

## What Records Can I See?

Parents can see all records, files, documents, and other materials that are kept by the school district and have information relating to your child. This includes all records that refer to your child in any personally identifiable way.

## Are There Records I Can't See?

Personal notes of teachers, counselors, and/or school administrators made for their own use and shown to no one else (except a substitute teacher); records of school security police when they are kept separate from other records and used for law-enforcement purposes; records of other students; personnel records of school employees.

## May I Make Changes to School Records?

If you feel that a document is inaccurate or misleading, you have a right to request that it be removed or corrected. If the school disagrees, you may submit a written response to the document, and it must be included in the file. If the school does not want to comply with your request to correct the information, you may ask for a formal records hearing.

## Prior Written Notice/ Procedural Safeguards Notice

**Prior written notice** refers to the written notice that is required whenever the school district proposes or refuses to initiate or change any of the following in your child's IEP:

- identification
- evaluation
- educational placement
- provision of a Free and Appropriate Public Education (FAPE)

The content of the notice must include:

- proposed or refused action
- why the action is proposed or refused
- all records used by the district in reaching a decision
- where parents may obtain procedural safeguards
- who parents can contact to understand their rights
- options considered or rejected
- other factors relevant to the proposal or refusal

The notice must be in language that is understandable. This means:

- in language that the general public can understand
- in the parent's native language

*NOTE: If you did NOT get a Prior Written Notice, let the school district know in writing that you are requesting this.*

**Procedural Safeguards Notice** must be given:

- at least one time a year
- at initial referral for evaluation, or when a parent makes a request for an evaluation
- at receipt of request for due process hearing or compliance complaint
- when a parent is given an assessment plan
- whenever a parent requests one

The notice must explain in full the specific procedural safeguards for parent. It must also include the state complaint procedure.

For questions call the Procedural Safeguards Referral Service at the California Department of Education at 800.926.0648. Information can be also found at [www.cde.ca.gov/sp/se/qa/](http://www.cde.ca.gov/sp/se/qa/).

# Resolving Disagreements: A Continuum of Options

## **INFORMAL PROCESSES or Alternative Dispute Resolution (ADR)**

It is always best to solve problems as close to the source as possible. If you think that something in your IEP is not taking place, start with the Special Education staff responsible for that part of the IEP. If you are not able to resolve the issue, speak with the principal or Special Education administrator. Asking for an IEP meeting is another way to take care of a concern. If your issue is still not resolved, talk with a Matrix Parent Advisor or other experienced parents or advocates. As a general rule, everyone benefits when concerns are aired and settled in an informal manner.

Most problems have to do with either:

- compliance issues — something in the IEP is not being done as written
- disagreement over the IEP being appropriate (FAPE)
- breakdown in communication

ADR refers to methods used at the local level as alternatives to using state mediation and due process. These programs focus on resolving differences in a non-adversarial manner to meet student needs and preserve relationships. Collaborative strategies are used so there is a win-win result. Agreements reached through ADR are non-binding.

### **Types of ADR include:**

#### **Local Mediation**

A neutral mediator who is not from the school district meets with parents and district to work out an agreement. This is not an IEP meeting. Both parent and school district must agree to use this voluntary process.



#### **Facilitated IEP Meetings**

A neutral facilitator who is not from the school district runs the IEP meeting. The facilitator uses strategies to create an environment with clear communication, such as:

- developing a meeting agenda and setting ground rules for the meeting
- keeping team members focused on developing a satisfactory I.E.P.
- guiding team discussion to maintain relationships
- promoting a mutual problem-solving approach to build agreements

A facilitator does *not*:

- force a decision on a group
- take sides, place blame, or decide if an issue is right or wrong

#### **Ombudsmen**

Independent child advocates provide a more intensive intervention. They interface between parents and districts, focus on meeting student needs, and make sure Special Education services are in compliance.

For more information on informal services, contact your SELPA office (*listed in this packet on the “IEP Resources” page*).

**FORMAL METHODS – STATE LEVEL** (*For more information, see our Resolving Disagreements packet*)

If informal resolution of a disagreement or complaint doesn’t work, a parent can use more formal methods: state mediation, due process hearing, and compliance complaints. It is important to submit all required information and note that informal measures to resolve conflicts were tried and failed. There is no cost for formal methods unless you hire an attorney.

**Pre-Hearing Mediation and Resolution Sessions**

State mediation does not change the rights of a parent or district to ask for due process or to file a compliance complaint. Mediation can be requested at the time of a filing for due process, or it can be requested without filing. The request is made with the California Office of Administrative Hearings, Special Education Unit. Mediation tries to bring about a settlement or compromise using an objective neutral party. It is a chance for parents and school officials to discuss their differences to resolve the problem without going to due process. If both parties agree, mediation can be started at any time to speed up a solution.

When due process is requested, a resolution session must be held prior to the due process, unless both parties (parents and school officials) agree to not use a resolution session. Mediated agreements and agreements reached through resolution sessions are binding. Negotiation details are confidential and cannot be entered into evidence during due process hearings.

**Due Process**

In this process, a parent and the school give evidence before a judge from the California Office of Administrative Hearings. The judge decides how to resolve the problem. You will be asked first to consider state mediation. Lawyers can be involved. The Office of Administrative Hearings can be reached at 916.323.6876 or [www.oah.dgs.ca.gov](http://www.oah.dgs.ca.gov). Decisions are binding.

**Compliance Complaint**

This is used if a requirement of the Individual with Disabilities Education Act (IDEA) may have been violated and/or something in your student’s IEP is not in compliance with law. You contact the California Department of Education and describe the violation in writing. The Department of Education investigates and must resolve the complaint within 60 days. If there is non-compliance, the department can order the district to take corrective action.

Call the **Department of Education/Special Education Procedural Safeguards and Referral Services** at **800.926.0648** for questions on Special Education codes, your rights, and the process to file complaints.

# Special Education and Disability Acronyms

**504** – Section 504 of the Rehabilitation Act of 1973  
**ADA** – Americans with Disabilities Act of 1990  
**ADHD** – Attention Deficit Hyperactivity Disorder  
**ADR** – Alternative Dispute Resolution  
**ASD** – Autism Spectrum Disorder  
**ASL** – American Sign Language  
**AT** – Assistive Technology  
**BIP** – Behavioral Intervention Plan  
**CAPD** – Central Auditory Processing Disorder  
**CCS** – California Children’s Services  
**DB** – Deaf-Blind  
**DD** – Developmental Disability  
**DDS** – California Department of Developmental Services  
**ED** – Emotionally Disturbed (also called Seriously Emotionally Disturbed)  
**EI** – Early Intervention  
**ESL** – English as a Second Language  
**ESY** – Extended School Year  
**FAPE** – Free and Appropriate Public Education  
**HH** – Hard of Hearing/Deaf  
**ID** – Intellectual Disability, formerly called MR or mental retardation  
**IDEA** – Individuals with Disabilities Education Act  
**IEE** – Independent Educational Evaluation  
**IEP** – Individualized Education Program (or Individualized Education Plan)  
**IQ** – Intelligence Quotient  
**LEA** – Local Education Agency  
**LD** – Learning Disabilities  
**LEP** – Limited English Proficient  
**LRE** – Least Restrictive Environment  
**MD** – Multiple Disabilities  
**NCLB** – No Child Left Behind Act  
**OI** – Orthopedic Impairment  
**OSEP** – Office of Special Education Programs  
**OT** – Occupational Therapy  
**PDD-NOS** – Pervasive Developmental Disorder, Not Otherwise Specified  
**PT** – Physical Therapy  
**RSP** – Resource Specialist Program  
**SDC** – Special Day Class  
**SELPA** – Special Education Local Plan Area  
**SLD** – Specific Learning Disability (also called **LD**)  
**TBI** – Traumatic Brain Injury  
**VI** – Visually Impaired