

special education



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DISCLAIMER:

The contents of this Toolkit are not all inclusive; the information contained within is meant to provide an overview of the California laws affecting foster youth in the public school system.

The information cited is from published laws and regulations, program policies and guidelines, etc., in effect at the time of publication. Federal and state laws can change at any time. Where possible, primary sources (and weblinks) are provided.

This publication provides general information related to the law and designed to help users cope with the educational needs of the foster youth they may work with. This publication is not for the purpose of providing legal advice. While we go to great lengths to make sure that our information is accurate and useful, we recommend that you consult a lawyer if you want legal advice with respect to any particular issue or problem.

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ACHIEVING EDUCATIONAL GOALS THROUGH SPECIAL EDUCATION

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TABLE OF CONTENTS

What is an IEP?

How does a student get one?

1. Identification
2. Assessment
3. Qualification

What if the school says the student doesn't qualify?

1. Independent Education Evaluation (IEE)
2. Alternative Dispute Resolution (ADR)
3. Due Process Hearing
4. 504 Plan

How is an IEP monitored?

1. Annual IEP meeting
2. Triennial IEP assessment
3. Amendment IEP meeting
4. School transfer IEP meeting

In what educational settings might a student with an IEP receive services?

1. Resource Specialist Program (RSP)
2. Special Day Class (SDC)
3. Non-Public School (NPS)

What services might be available to a student with an IEP?

1. Specially Designed Instruction (SDI)
2. Transportation
3. Extended School Year
4. Transition services
5. Educationally Related Mental Health Services (ERMHS)
6. Behavior supports
7. Accommodated extracurriculars

How are students with IEPs disciplined at school?

1. Change of Placement
2. Manifestation Determination
3. Special circumstances
4. Continuing services

How do students with IEPs graduate?

1. Extended time to graduate
2. Certificate of completion

ACHIEVING EDUCATIONAL GOALS THROUGH SPECIAL EDUCATION

Achieving success in school can be particularly meaningful for foster and probation youth. Good grades and a high school diploma can provide a confidence and self-worth that might otherwise be lost amid turbulence in the home and the stigma of court supervision. Unfortunately, the trauma that many system involved youth encounter – including in-utero drug exposure, early childhood neglect and disruptions in key attachment figures – can limit their ability to make academic progress without specialized services.

In appropriate circumstances, special education services through the Individuals with Disabilities Education Act (IDEA) and corresponding California law can be a critical tool in achieving educational success for system-involved youth. Recent data indicates that students in foster care qualify for special education at twice the rate of the statewide student population. Almost 1 in 5 of California's foster youth are designated as students with disabilities. Of that population, 39% qualify for special education on the basis of specific learning disability (SLD), indicating impairment in the ability to listen, think, read, write and/or calculate. Almost a quarter of California's foster youth receiving special education services qualify on the basis of an emotional disturbance (ED) which can affect interpersonal relationships and behavior. This is more than quadruple the statewide rate of students qualifying for services on the basis of ED.

This guide is intended to offer tools to social workers, probation officers, lawyers and caregivers to protect foster and probation youth rights and to help qualifying students navigate successfully through the sometimes complicated world of special education.

¹Barrat, V.X., & Berliner, B. (2013). The Invisible Achievement Gap, Part 1: Education Outcomes of Students in Foster Care in California's Public Schools. San Francisco: WestEd.

²Id at 10.

³Id at 12.

What is an IEP?

An individualized education program (IEP) is a written document outlining the school placement, special education and related services to be provided by the school to ***an individual with exceptional needs***¹, in accordance with that student's right to a ***free and appropriate public education (FAPE)***. IEPs are developed and monitored by a student's ***IEP Team*** at regular IEP meetings and include the student's present levels of performance and measurable annual goals in each of the student's areas of educational need.

How to make sense of the IEP document.

Every IEP is based on the individualized needs of the student as determined by the student's ***IEP Team***. Reading through an IEP can be confusing if you don't know what to expect. Every IEP document should contain the following components:

- **Statement of Eligibility** – The document should identify the disability for which the student qualifies for special education services and contain a description of how the disability affects the student's ability to make academic progress.
- **Present Levels of Performance (PLOPs)** – The document should include information about the student's current levels of functioning on academic tasks and in the classroom. This can include information from any statewide tests, reports from recent psychoeducational assessments and classroom observations. This information functions to identify each of the student's areas of need for special education services.
- **Annual Goals and Objectives** – For each identified area of need, there should be:
 - A statement of the student's baseline functioning;
 - A specific goal for progress over the course of the year stated in measurable terms; and
 - Short term objectives for tracking progress made on the goal throughout the year.
- **Offer of FAPE** – The document will contain the school district's proposed plan for providing the student with ***FAPE***. This will include:
 - The educational placement in which the student will receive instruction, including a breakdown of the student's time inside and outside of the general education setting; and
 - A list of special education services to be provided to the student, including information about the duration, frequency and setting in which those services will be provided.

How does a student get an IEP?

In order to receive an IEP a student must be identified as an *individual with exceptional needs* and his/her *education rights holder (ERH)* must consent to the offered services.

1 Identification

There are two main ways the process of identifying students who qualify for an IEP can begin:

- a. **Child Find** – School districts are required to “actively and systematically” seek out students who may require the services of an IEP. This requirement extends to students who reside within the bounds of the district but are not in attendance at a district school. It also includes students in private schools as well as homeless students. EC §§ 56300-56301.
- b. **Written request** – A student’s *ERH*, foster parent, teacher or any other service provider can initiate an assessment for an IEP via written request. EC § 56029. The school has 15 calendar days from receipt of a written request to propose an assessment plan. EC § 56043(a). The school cannot delay the development of an assessment plan pending participation in a *student success team meeting* or for any other reason.

What should the request look like and who should it go to?

The most important elements of the request for an IEP assessment are that it is in writing, that it specifies the areas in which assessment is sought, and that it gets to the school. Here are a few more tips for successful assessment requests:

- **Get a date-stamped copy of your request.** This may require taking your request to the school in person, but it will help ensure that the assessment timelines are followed.
- **Address the request to the Principal and the school psychologist.** The school psychologist is likely the person who will oversee the assessment and should be familiar with the required timelines.
- **Include specific concerns and supporting evidence of the need for assessment in the request.** Providing previously completed assessments of the student, including Regional Center assessments, can be particularly helpful in identifying the student’s areas of educational need. It is best to consult with a student’s attorney before releasing psychological evaluations to the school.

2 Assessment

In order to determine whether a student qualifies for an IEP, the school must conduct an individual assessment of the student by *qualified persons* in all areas of suspected disability. EC § 56320.

- a. **Assessment plan** – The school will develop a plan outlining the areas of need they intend to assess. The *ERH* should carefully review the assessment plan to ensure it addresses all areas of concern. Areas of suspected disability for which a student might be assessed include health and development, vision, hearing, motor ability, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests and social and emotional status. EC § 56320(f).
- b. **Assessment timeline** – An initial IEP meeting and determination regarding eligibility must be made within 60 days of the *ERH's* consent to assessment. EC § 56302.1(a).
- c. **Assessments in juvenile hall** – Students enrolled in juvenile court schools are entitled to assessment for IEP services to the same extent as students enrolled in other schools. EC § 56150. Typically, when students are in juvenile hall they are disenrolled from their regular public school and enrolled in the county-run juvenile court school. This means that requests for assessment while the student is in juvenile hall need to go through the on-site county school, not the student's regular public school. This also means that, should the student be released from juvenile hall prior to the completion of the assessment, his regular public school will need to complete the assessment once he is reenrolled there.
- d. **Changing schools mid-assessment** – School districts are required to coordinate with each other to ensure prompt completion of IEP assessments when a student transfers school districts mid-assessment. EC § 56320(i). A transfer to a school within the same school district does not alter the timelines for completion of the assessment. A new school district will be exempt from the 60 day timeline initiated at the prior school district only to the extent that (1) it is making sufficient progress to promptly complete the assessment, and (2) it makes an agreement with the ERH to complete the assessment by a specific, identified date. EC § 56302.1(b).

3 Qualification

A student qualifies for an IEP if the results of the assessment indicate that the student has a qualifying disability that adversely affects his/her educational performance to the degree that special education services are necessary. The

determination of eligibility must be made jointly by the student's **IEP Team** and cannot be based on any single assessment measure. 5 CCR § 3030(a).

- a. **Qualifying Disability** – The categories of disability for which a student can receive an IEP include: autism; deafness; visual impairment; deaf-blindness; **emotional disturbance (ED)**; hearing impairment; intellectual disability; orthopedic impairment; **other health impairment (OHI)**; **specific learning disability (SLD)**; speech/language disorder; and traumatic brain injury. 5 CCR § 3030(b).
- b. **Special education services are necessary to achieve educational benefit** – A student can have a qualifying disability but still not be eligible for an IEP if the student's needs can be adequately met through modification of the general education program. Hood v. Encinitas Union School District (2007) 486 F.3d 1099.
- c. **Consent** – A school cannot implement a proposed IEP or provide special education services without either the informed consent of the student's

Continued on pg 6

How can you help a new school district complete an assessment?

- **Provide the new school with a date-stamped copy of the initial request for assessment.** This ensures that the new school knows when the timeline began.
- **Facilitate communication between the new school's psychologist and the previous school's psychologist.** You may be the best person to connect the dots between the people who began the assessment and the people who will complete it.
- **Consider setting a date with the new school for the completion of the assessment.** Agreement to an alternative deadline may ultimately help ensure prompt completion of the assessment even if the new deadline goes beyond the original 60 day mark.
- **Make sure the student is present at the new school to complete testing.** The new school district is not required to follow the 60 day timeline and may not be required to complete the assessment at all if the **ERH** or other caretaker repeatedly fails to produce the child for testing. EC § 56302.1(b)(2).

ERH or a court order resulting from a due process hearing. EC §56346. An **ERH** can consent in whole, in part, or not at all to the proposed placement and/or services offered to a student. EC § 56346(e). The **ERH** may take the proposed IEP home for further review and/or consultation with an attorney prior to signing any portion of the document.

What if the school says the student doesn't qualify?

If the school district finds that a student does not qualify for an IEP, the **ERH** has a few options for challenging this decision and/or securing needed services for the student.

1 Independent Educational Evaluation (IEE)

An **ERH** has the right to obtain, at public expense, an independent educational assessment of a student from qualified specialists if the **ERH** disagrees with the assessment provided by the school district. EC § 56329(b). However, the school district may challenge the request for an IEE via due process hearing.

How do I ask for an IEE?

The **ERH** should make the request for an Independent Education Evaluation in writing with a clear statement of what parts of the district's assessment they disagree with and why. To the extent that there are specific behaviors or patterns of learning difficulty not addressed by the district's assessment, the request should include those concerns. If the new deadline goes beyond the original 60 day mark.

2 Alternative Dispute Resolution (ADR)

If an **ERH** disagrees with the school regarding a student's eligibility for an IEP, or any part of the school's offer of **FAPE**, the **ERH** can request alternative dispute resolution (ADR) or mediation with the school, conducted by a knowledgeable mediator at no cost to the **ERH**. Requests for mediation are made to the school district Superintendent. Attorneys are typically not permitted to attend voluntary mediations. These voluntary mediations can result in binding, enforceable agreements. If no agreement is reached, however, the **ERH** can still proceed to a formal due process hearing. EC § 56500.3

The formal means of challenging a school's denial of an IEP or of **FAPE** is a due process hearing. Due process hearings are initiated via written request to the Superintendent and require advance notice to all parties of the specific points of disagreement and proposed resolutions. These are administrative hearings at which a knowledgeable decision maker presides over the presentation of evidence and testimony and at which attorneys are permitted. Students are permitted to "**stay put**" in their current educational setting pending the resolution of due process hearings. EC §§ 56501; 56502; 56505.

Continued on pg 8

Is an attorney necessary for a due process hearing?

The **ERH** is not required to have an attorney to participate in due process proceedings, but the school district likely will have an attorney. The proceedings are governed by a set of specific rules and requirements and consulting with an attorney familiar with these types of hearings can make a significant difference.

4 504 Plan

Development of a 504 plan can be an alternate means of providing needed services and accommodations to students with physical or mental impairments that substantially limit learning or another major life activity. 34 CFR § 104.3(j). These impairments may include, for example, ADHD, dyslexia, diabetes, chronic asthma, depression and conduct disorders. 504 plans are anti-discrimination measures designed to permit students with disabilities equal access to **FAPE**. They are typically not administered by a school district's department of special education, but by separate school administrators. Although both 504 plans and IEPs enforce students' rights to **FAPE**, 504 plans offer fewer procedural protections than IEPs do.

How to enforce a 504 plan.

Every school district must have a written 504 policy that ensures the following procedural safeguards are granted to eligible students:

- Notice to **ERH** regarding identification, evaluation and placement of an eligible student;
- Opportunity for **ERH** to examine relevant records;
- Impartial hearing regarding identification, evaluation and or placement of student, including an opportunity for **ERH** to participate and be represented by an attorney; and
- A review procedure.

34 CFR § 104.36. If a school isn't implementing a student's 504 plan, the **ERH** can file a complaint with the school district pursuant to the district's 504 policy. If that fails to resolve the issue, a complaint can be filed with the appropriate regional Office for Civil Rights. (See www.ed.gov/ocr)



How is an IEP monitored?

Once a student qualifies for an IEP and begins receiving services, the student's progress and the continuing appropriateness of the IEP are monitored regularly by the **IEP Team**.

1 Annual IEP meeting

A student's **IEP Team** must meet at a minimum once a year to review the student's progress and continuing appropriateness of the student's placement

Continued on pg 10

How to make the most of the annual IEP meeting.

- **Collect information regarding the student's progress prior to the meeting.** Having a sense of how the student is performing prior to the meeting can help focus the issues that need to be addressed during the meeting. The **ERH** can consult with the student's teachers and other educational providers regarding the student's progress in advance of the meeting.
- **Invite relevant service providers to attend.** Students in the foster care or delinquency systems often have service providers outside of the school environment. These providers can be invaluable members of the student's IEP team.
- **Make sure the IEP notes adequately reflect what was discussed at the meeting.** The school is required to take official notes at each IEP meeting and should offer the **ERH** an opportunity to review those notes at the close of the meeting. Be sure that all of the concerns addressed by the IEP Team, in addition to the school's responses to those concerns and any commitments made are outlined in the official IEP notes. This helps prevent confusion at subsequent meetings and clarifies any points of disagreement.
- **Consider setting interim IEP meetings to monitor the student's progress on agreed to goals.** Each of the student's annual goals should include benchmarks to help gauge the student's progress meeting those goals over the course of the year. If there is a goal for which the **ERH** is particularly concerned, the **IEP Team** may schedule a date/s to reconvene prior to the next annual meeting to review the student's progress.

and IEP services. Amendments to the IEP can be made at the meeting if, for example, the services have not been adequate to meet the student's needs, or if the student requires a step-down to a less restrictive educational setting. EC § 56043(j).

2 Triennial IEP assessment

At least every three years, and at most once a year, a student with an IEP must be re-assessed to determine whether or not they still qualify for IEP services. EC § 56043(k).

3 Amendment IEP meeting

Both the school district and the **ERH** can initiate an IEP meeting at any time to make necessary amendments to a student's IEP. Such meetings are required when a student demonstrates a lack of expected progress. EC § 56343(c). An IEP meeting must occur within 30 calendar days of an **ERH's** written request for a meeting. EC § 56043(l).

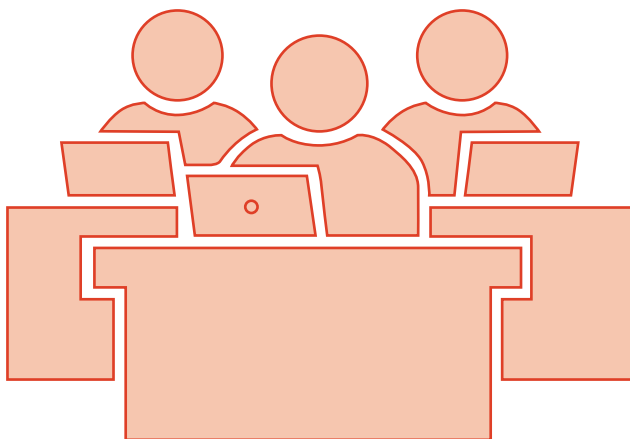
4 School transfer IEP meeting

Whenever a student with an IEP transfers to a new school district, the new school district must hold an IEP meeting within the first 30 days of the student's enrollment to review the continuing appropriateness of the existing IEP. Pending that meeting, the new school district must provide the student with **FAPÉ**, including services "comparable" to those in the student's pre-existing IEP. EC §§ 56043(m); 56325.

When to call an amendment meeting.

The school will continue to implement the IEP as agreed to at the annual IEP meeting until/unless the **IEP Team** reconvenes to make adjustments. Issues that may warrant an amendment IEP include, but are not limited to:

- Lack of progress toward meeting educational goals;
- Newly identified educational needs;
- Need for a placement change (either because the student's placement is too restrictive or not restrictive enough);
- Increase in negative behaviors (which may warrant the creation of a **behavior intervention plan (BIP)**.)



In what educational settings might a student with an IEP receive services?

Students with IEPs have the right to be educated in the *least restrictive environment (LRE)* that will allow them to make academic progress. This means that to the maximum extent possible they are to receive instruction alongside children in the general education setting. Removal from the general education setting for any length of time can occur only if the nature or severity of the student's disability cannot be adequately accommodated in the general education setting. 20 U.S.C. 1412(a)(5); EC § 56040.1. Some of the more common educational service settings are resource specialist programs (RSP), special day classes (SDC) and non-public schools (NPS).

1 Resource Specialist Program (RSP)

Students can receive a variety of special education services from a trained and credentialed resource specialist. These services can be provided either inside the general education classroom ("push-in" services) or outside of the general education classroom ("pull-out" services), but RSP services are typically for students who spend a majority of their day in the general education setting. EC § 56362.

2 Special Day Class (SDC)

Special education services can be provided to a student in a special day class embedded in the general, public school environment. These are typically smaller classes with more instructional, and sometimes counseling, support. SDC is a more restrictive environment in that it separates students with IEPs out from the general education population into a separate special education class. EC § 56364.2.

3 Non-Public School (NPS)

If a student's disability is severe enough that they cannot make educational progress with the services available at a public school, the student can be placed at an NPS. A student cannot be placed at an NPS unless their IEP specifies that such placement is necessary for the provision of **FAPE**. NPS placements are one of the more restrictive educational environments in that students there are removed entirely from the public school campus. Residential placement of a foster or probation youth in a group home cannot be conditioned upon that youth's educational placement at an NPS. EC § 56366.9

What to know about IEPs and Independent Study programs.

A student with an IEP cannot participate in an independent study program unless instruction via independent study is specifically provided for in the student's IEP. EC § 51745(c). No student, whether they have an IEP or not, can be required to receive instruction via an independent studies program. EC § 51747(c)(7).



What services might be available to a student with an IEP?

Every IEP is based on the individualized needs of the student as determined by the student's IEP Team. While no two IEPs will look the same, the following is a non-exhaustive list of some common services that can be included in a student's IEP when appropriate:

1 Specially Designed Instruction (SDI)

Specially Designed Instruction refers to any adaptation of teaching methodology, content or delivery of instruction designed to help students with disabilities access the general curriculum. 34 CFR § 300.39(b)(3). Examples of SDI include modified assignments and one-on-one instruction. Some school districts refer to these methods of instruction as Specialized Academic Instruction (SAI).

2 Transportation

If the IEP Team determines that a student with an IEP requires transportation services to benefit from the IEP, the school district must provide transportation at no cost. EC § 56363.

3 Extended School Year (ESY)

Extended school year services are services provided beyond the normal school year at no cost in accordance with a student's IEP. 34 CFR 300.106(b). They are typically provided for students for whom interruption of services during summer breaks would cause regression and who have limited capacity to recover prior educational gains. 5 CCR § 3043. Extended school year services must be provided if a student's **IEP Team** determines they are necessary for the student to receive **FAPE**. EC § 56345(b)(3).

4 Transition services

Once a student turns 16, their IEP must include postsecondary goals based on age-appropriate transition assessments related to training, education, employment and independent living. EC § 56345(a)(8). These goals must be supported by transition services designed to facilitate the movement of the student from school to post-school activities, including postsecondary education, vocational education, employment and independent living. EC § 56345.1.

5 Educationally Related Mental Health Services (ERMHS)

When a student's **IEP Team** determines that mental health services are necessary to provide a student with **FAPE**, school-based mental health services must be included in the student's IEP.

6 Behavior supports

School districts must provide appropriate behavioral assessments and positive behavioral supports and interventions to students with IEPs who exhibit serious behavioral challenges. When a student's behavior has an adverse impact on his/her learning and/or the learning of other students, a **behavior intervention plan (BIP)** will be developed as part of the IEP. EC §§ 56520; 56521.2(b).

7 Accommodated extracurriculars

School districts must provide supplementary aids and services when necessary and appropriate to provide students with IEPs equal access to nonacademic and extracurricular activities. Such activities might include athletics, health services, recreational activities, special interest groups and counseling services. EC § 56345.2.

How are students with IEPs disciplined at school?

Except in special circumstances, whenever proposed school disciplinary measures will result in a change of placement for a student with an IEP, the school must conduct a manifestation determination. EC § 48915.5; 20 U.S.C. § 1415(k)(1)(E).

1 Change of Placement

Removal from the educational placement specified in a student's IEP constitutes a change of placement if either:

- a. **The removal exceeds 10 consecutive school days;** or
- b. **The removal is part of a pattern of removals.** A removal may be part of a pattern when the student has been removed in total more than 10 days in the school year for substantially similar behavior. 34 CFR § 300.536.

2 Manifestation Determination

A manifestation determination is a determination of whether or not a student's negative behavior is a manifestation of the disability for which

they receive special education services. The determination must be made by relevant members of the **IEP Team** after review of all relevant information and within 10 school days of the decision to change the student's placement. 20 U.S.C. § 1415(k)(1)(E).

Attorneys for foster and probation youth must be notified.

If the manifestation determination is regarding an act for which the school has discretion to expel the student and the student is a foster or probation youth, the school must invite the student's attorney and an appropriate county representative to participate in the manifestation determination meeting. EC § 48915.5(d).

- a. **When is a student's behavior a manifestation of their disability?** – A student's behavior will be deemed a manifestation of their disability if either (1) it was caused by or had a direct and substantial relationship to the student's disability, or (2) if it was the direct result of the school's failure to implement the student's IEP. 20 U.S.C. § 1415(k)(1)(E).
- b. **What happens when the behavior is a manifestation of the student's disability?** – When the **IEP Team** determines the behavior is a manifestation of the student's disability, the school must either conduct a **functional behavioral assessment (FBA)** and implement a **behavioral intervention plan (BIP)** or review and make any necessary modifications to the student's pre-existing **BIP**. The school must also return the student to the placement specified in their IEP unless the **ERH** agrees to a different placement. 20 U.S.C. § 1415(k)(1)(F).
- c. **What happens when the behavior is not a manifestation of the student's disability?** – If the **IEP Team** determines that the behavior is not a manifestation of the student's disability, the student can be disciplined in the manner all other students would be disciplined for the behavior. 20 U.S.C. § 1415(k)(1)(C).
- d. **What if the ERH disagrees with the outcome of a manifestation determination?** – An **ERH** can appeal the determination that a student's behavior was not a manifestation of their disability via an expedited due process hearing. The hearing must occur within 20 school days of

Continued on p16

the request for hearing and a determination must be made within 10 school days of the hearing. The **ERH** and school are required to hold a resolution meeting prior to the due process hearing unless they agree in writing to waive that requirement. The student must remain in the interim alternative educational setting identified by the **IEP Team** pending the result of the due process hearing. 20 USC. § 1415(k)(3-4); 34 CFR § 300.532.

3 Special circumstances

A student with an IEP can be removed from their educational placement and placed in an interim alternative educational setting for no more than 45 school days if, while at school or a school function, the student possesses a weapon, possesses, uses or sells illegal drugs, or inflicts serious bodily injury on another person. 20 U.S.C. § 1415(k)(1)(G). The alternative educational setting must be determined by the student's **IEP Team**. 34 CFR § 300.531.

4 Continuing services.

Students with IEPs must continue to receive the services necessary to provide them with **FAPE** when their behavior results in a change of placement, whether or not that behavior is determined to be a manifestation of their disability. 20 U.S.C. § 1415(k)(1)(D). These services may be provided in an alternative educational setting determined by the student's **IEP Team**. 34 CFR § 300.531.

5 Transportation

If a student with an IEP is excluded from transport via school bus as the result of a disciplinary action, the student is entitled to an alternate, free form of transportation to and from school if transportation is specified in the student's IEP. EC § 48915.5(c)



How do students with IEPs graduate?

For the most part, having an IEP should have little effect on a student's graduation experience. However, there are some unique options for students with IEPs who have difficulty completing their high school programs.

1 Extended time to graduate.

Students found eligible for IEP services prior to their 19th birthdays remain eligible for IEP services and can continue attending school until they complete their prescribed course of study, graduate with a regular high school diploma, or until the end of the semester in which they turn 22 years old. EC § 56026(c)(4).

2 Certificate of completion

A student with an IEP may be awarded a certificate of completion and participate in all regular graduation ceremonies and activities if the student completes a prescribed alternative course of study, satisfactorily meets the goals and objectives of the IEP, or has participated in instruction and met the objectives of a transition plan. EC §§ 56390-56391. A certificate of completion does not equate to a regular high school diploma, does not terminate eligibility for ongoing IEP services and does not automatically terminate high school enrollment. EC § 56391. A student should consult with his/her attorney prior to signing any agreements to exit special education prior to his/her 22 birthday.

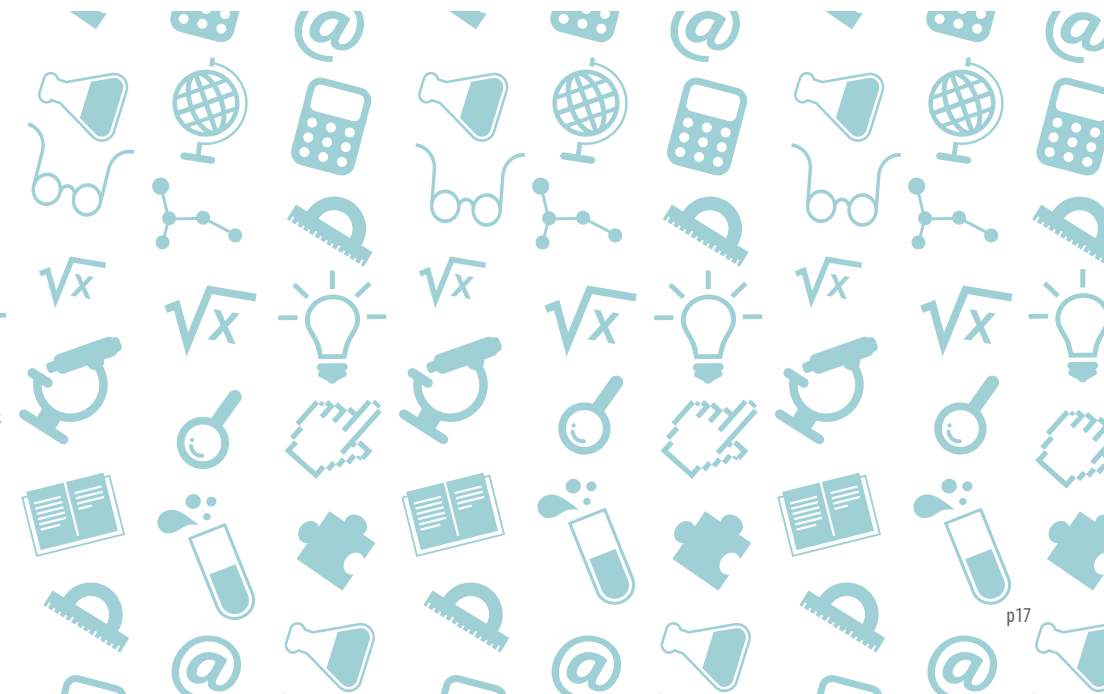


TABLE OF TERMS

BIP/Behavior Intervention Plan	<p>A plan developed by a student's IEP Team to systematically address targeted behaviors that impede a student's ability to learn or disrupts the learning of their peers. BIPs are typically created based on recommendations from a FBA, include positive behavioral interventions and can be modified as necessary along with the IEP.</p>
ED/Emotional Disturbance	<p>A student has an emotional disturbance if s/he exhibits one or more of the following characteristics over a long period of time, to a degree that adversely affects his/her educational performance:</p> <ul style="list-style-type: none"> • An inability to learn that cannot be explained by intellectual, sensory, or other health factors. • An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. • Inappropriate types of behavior or feelings under normal circumstances. • A general pervasive mood of unhappiness or depression. • A tendency to develop physical symptoms or fears associated with personal or school problems. • Schizophrenia. <p>A student will not qualify for an IEP for ED solely on the basis of "social maladjustment." 5 CCR § 3030(b)(4).</p>
ERH/Education Rights Holder	<p>The adult with legal authority to sign off on IEPs and make all educational decisions for the student. Generally, this is the student's parent, but foster and probation youth often have other adults appointed by the court to hold their education rights. A foster parent does not automatically become a student's education rights holder. County social workers, probation officers, school staff, group home staff and other adults with conflicts of interest are not legally permitted to hold the education rights of students in their care. WIC §§ 361(a)(2); 726(c). Students become their own education rights holders and can consent to educational testing and services when they turn 18 years old. EC § 56041.5.</p>
FAPE/Free Appropriate Public Education	<p>Special education and related services that:</p> <ul style="list-style-type: none"> • Are provided at public expense, under public supervision and direction, and without charge; • Meet the standards of the State educational agency; • Include an appropriate preschool, elementary school, or secondary school education; and • Are provided in conformity with an IEP. <p>20 USC § 1401(9). (See, also, 34 CFR § 104.33 for a definition of FAPE for purposes of 504 plans.) Provision of FAPE does not require a school district to maximize a student's educational potential, but to provide an education reasonably calculated to "confer some educational benefit" on the child. Board of Education of the Hendrick Hudson Central School District v. Rowley (1982) 458 U.S. 176, 203-204.</p>
FBA/ Functional Behavioral Assessment	<p>An assessment conducted by a qualified professional to identify a student's maladaptive behaviors with the goal of developing strategies to reduce them. These assessments include observation of the student, interviews with relevant adults and review of relevant documentation. FBAs typically result in the development of BIPs.</p>

IEP Team	<p>A student's IEP team must include the following participants, unless waived by the ERH:</p> <ul style="list-style-type: none"> • The student's ERH; • At least 1 of the student's regular education teachers (if the student is or may be participating in the regular education environment); • At least 1 of the student's special education teachers or providers; • A school representative who is (1) qualified to provide/supervise specially designed instruction for students with IEPs; (2) knowledgeable about the general education curriculum; and (3) knowledgeable about the school/district's resources; • An individual who can interpret the instructional implications of any assessment results (can be one of the above-mentioned individuals); • At the discretion of the parent/school, other individuals with knowledge or special expertise regarding the child, including service providers; and • Whenever appropriate, the student. Students who are 16 years old or older must be invited to attend the IEP. <p>20 USC § 1414(d)(1)(B); EC § 56341.</p>
Individual with Exceptional Needs	<p>A student with a disability who, in order to receive FAPE, requires instruction and services beyond a modified regular school program. EC § 56026.</p>
LRE/Least Restrictive Environment	<p>The educational setting that allows for the most instruction alongside general education students possible while still allowing a student with an IEP to make educational progress.</p>
OHI/Other Health Impairment	<p>A student with OHI has limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment and:</p> <ul style="list-style-type: none"> • Is due to chronic or acute health problems (including but not limited to asthma, ADD/ADHD, diabetes, epilepsy, sickle cell anemia and Tourette syndrome); and • Adversely affects a child's educational performance. <p>5 CCR § 3030(b)(9).</p>
Qualified Persons	<p>Individually administered tests of intellectual or emotional functioning must be administered by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors as appropriate. EC §§ 56320(b)(3); 56324(a). Health assessments must be conducted by credentialed school nurses or physicians. EC § 56324(b). Assessments for any particular disability must be conducted by persons knowledgeable of that disability. EC § 56320(g).</p>
SLD/Specific Learning Disability	<p>A disorder in one or more of the basic psychological processes (including attention, visual processing, auditory processing, phonological processing, sensory-motor skills, cognitive abilities, conceptualization and expression) involved in understanding or in using language that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disabilities are often identified by significant discrepancies between a student's intellectual ability and their actual achievement. 5 CCR § 3030(b)(10).</p>
SST/Student Success Team	<p>Student success team meetings are functions of general education and are governed by school district policy. Participation in an SST is not a legal pre-requisite to assessment for special education.</p>
Stay Put	<p>Stay put refers to the right of a student to remain in the last agreed upon educational setting and to receive the last agreed upon services pending the outcome of a due process hearing or ERH consent to a change in setting or services.</p>

ALPHABET SOUP: TABLE OF ABBREVIATIONS

EC	California Education Code
CRC	California Rules of Court
WIC	California Welfare & Insitutions Code
IEP	Individualized Education Plan
USC	United States Code
NPS	Non-Public School
LEA	Local Education Agency
CFR	Code of Federal Regulations
AB	Assembly Bill
ACL	All Country Letter
ERH	Educational Rights Holder
SB	Senate Bill