

Special Education Definitions and Acronyms

1. **What is FAPE?** FAPE stands for Free Appropriate Public Education and guarantees that children with a disability receive an educational program individually designed to meet their unique needs.
2. **What is an IEP?** An IEP is an Individualized Education Program which must be tailored to meet a student's specific needs, based on their disability. An IEP is a contract so make sure that what the school promises to give you is actually written in the document.
3. **What is LRE?** The Least Restrictive Environment mandate requires that disabled children spend as much time in general education settings with general education students as possible, while still meeting their special needs. The appropriate LRE for each student is different and depends on their own unique needs.
4. **What is an ERH, and how do I become one?** ERH stands for Education Rights Holder and refers to the person with the legal authority to make educational decisions regarding a child. The ERH is typically the biological parent, but the rights can be transferred to legal guardians, adoptive parents, or a foster parent or court appointed special advocate (CASA) with a court order called a JV535. You can contact your social worker or the child's attorney in court to ask for these rights to be transferred to you.

Special Education Eligibility

5. **How old does a child have to be to qualify for special education services?** Children are eligible for an IEP starting at age three. If your child is younger than that, you should contact a Regional Center to receive early start special education services through an Individual Family Service Plan (IFSP).
6. **How can I get a free advocate or attorney to ensure that my child in foster care with a disability is eligible for and/or has an appropriate IEP?** Contact the child's minor's attorney in dependency court and ask that they complete a referral to the 317(e) panel.
7. **If my child has ADHD, could he be eligible for special education?** Yes, if his ADHD (Attention Deficit Hyperactive Disorder) is causing him to do poorly academically or behaviorally in school, he can be eligible under OHI (Other Health Impaired).
8. **If my child is passing all of her classes, does this mean that she cannot receive special education?** No, passing classes does not in and of itself disqualify your child from receiving special education services. For example, if she is having emotional or behavioral problems at school, this could also qualify her for special education.

Special Education Assessment

9. **What is the best way to request a special education assessment for my child?** The request should to be in writing, and dated, and you should keep a copy of your request for your own records.

Special Education Assessment (Cont.)

10. **How does my child qualify for a special education assessment?** To qualify for a special education assessment, your child only needs to have a suspected disability. This is a very low standard to meet and means that doing poorly in school will qualify your child in most circumstances. For example, while poor attendance may disqualify your child from becoming special education eligible if that is the sole cause for him doing poorly in school but this is not an appropriate reason to refuse to conduct the assessment to see if there are any other less obvious causes for the poor school performance.
11. **Once I request an assessment, what happens next?** The school must respond in writing within 15 days. That response must be an assessment plan or a written refusal to assess. Scheduling a meeting or a phone call from the school is not an adequate response.
12. **The school wants to hold an SST meeting to determine whether to assess my child for special education. Should I attend this meeting?** A Student Study Team meeting (SST) will not give your child any services, but you can go to the meeting to convince the school that an IEP is necessary and that they should complete the assessment you've requested. An SST is not a suitable response to your request for assessment—the school must always respond to such requests in writing, even if an SST occurs.
13. **The school is not responding to my request for special education assessment. What can I do?** The school has 15 days to respond in writing to your request. If there is no response, you may file a compliance complaint with the California Department of Education.
14. **What can I do if I disagree with the school's assessment?** You can request an Independent Educational Evaluation (IEE). The school district has only two options in this situation: they either pay for the IEE or they must bring a due process hearing against you to prove that their assessment is correct.

IEP Basics: The Individualized Education Program

15. **After I requested special education testing, when does the IEP meeting happen?** An IEP meeting must occur within 60 calendar days after the ERH consents to the assessment by signing the assessment plan.
16. **What if I can't make the time/date the school scheduled for my child's IEP?** The school is obligated to notify you well enough in advance of the meeting so that you can attend (and at a convenient location). If you cannot make the meeting, you can ask the school to reschedule it, and they must reschedule it so that you can attend.
17. **Who can I bring to an IEP meeting?** You may bring "individuals with knowledge or special expertise about the child." This includes friends and family, therapists, counselors, social workers, tutors, attorneys, and advocates.
18. **Who has the right to excuse members from an IEP meeting?** The district and the ERH must both agree in writing before anyone obligated to be there can be excused. This includes the general education teacher.
19. **How many annual goals should my child's IEP contain?** There is no limit; there should be at least one goal in each area of academic and behavioral need. All goals must be measurable and reflect the student's current abilities.

IEP Basics: The Individualized Education Program (Cont.)

- 20. Can I disagree with some portions of an IEP and agree with other parts of it?** Yes. For example, you may agree to the goals and placement, but disagree with the services as outlined. In this situation, you may give your limited consent, identifying directly on the IEP what you agree and disagree with. By writing out your consent, you permit the school to implement the portions you agree with while you wait to resolve the issues you disagree with. If the IEP gives you a small portion of services which you don't believe are enough to meet your child's needs, you can consent "for purposes of implementation only" so that your child can start receiving the offered amount of services while you work to get them more.
- 21. When can my child get transportation as part of her IEP?** There are three reasons when children qualify for transportation: when her IEP requires that she attend a school other than her home school in order to receive the services or program she requires; there are safety concerns which prevent the child from traveling safely to school in an age appropriate manner (ex. Cognitively delayed high school students who cannot safely cross the street cannot walk to school); and she has a physical disability.
- 22. If my child already has an IEP and it's not working, how do I request a new meeting?** Request one in writing. The school must schedule the meeting within 30 days.
- 23. How often can I request an IEP once my child is eligible?** Your child's IEP must be reviewed annually. In addition, you can request one at any time if you don't think the IEP is meeting your child's needs.

Special Education Placement

- 24. What are the possible special education placements?** There are four: General Education, Resource Specialist Program (RSP), Special Day Class (SDC), and nonpublic school, ranging from least to most restrictive. As discussed above, the child should be placed in the least restrictive environment which can most appropriately meet their needs.
- 25. Can a school change my child's placement without my permission?** No. Again, the school must hold an IEP meeting, and any changes require your consent.
- 26. Is a nonpublic school the same thing as a private school?** No. A private school is typically a religious institution and usually requires the parents to pay tuition. A nonpublic school focuses on special education and is certified by the state; the student's school district pays the tuition, not the parents.
- 27. My child went to a group home and the school placed him in the nearby nonpublic school. Can I get him transferred?** According to the LRE, your child should only be placed in a nonpublic school if he cannot function adequately in a public school. Even if he has an IEP, and especially if he does not, your child may still be entitled to an education at a public school under the LRE.

Other IEP Questions

- 28. What happens when a student has an IEP and transfers to another school district?** The new school district has to honor the existing one, provide comparable services, and convene a meeting within 30 days to develop their own IEP.

Other IEP Questions (Cont.)

29. **If my child is not receiving the services provided in her IEP, what can I do to make the school provide those services?** You may file a compliance complaint with the California Department of Education for failure to implement portions of the IEP. You do not need a lawyer for this. You may also sue the school district. While you do not need a lawyer for this, it is advised that you seek the advice of an attorney or advocate before filing suit.
30. **How long can my child receive special education services?** Until the age of 21/22 (depending on when their birthday falls) or he receives a high school diploma, whichever comes first.
31. **What is the difference between a diploma and a certificate of completion?** A special education student may need to pass the California High School Exit Exam in order to get his diploma, depending upon what the California Governor decides that year. In 2012, special education students are entitled to a CAHSEE waiver, if they choose. A certificate of completion means that a student has completed all their high school requirements but will continue to be eligible for special education services including vocational and transition services. Students can choose to not accept a CAHSEE waiver or their diploma and continue to receive special education services until 21/22.
32. **Can a school discontinue my child's services without telling me?** No, the school must hold an IEP meeting. If you reject the proposed changes to your child's services, the school cannot change them. You must agree to the changes for them to take place.

Due Process

33. **What is due process?** Due process allows you to resolve differences through the courts if other methods have not worked (mediation, compliance complaints, etc.). It is advised that you speak with an attorney if considering due process as the school will always be represented by an attorney in such proceedings.