

Special Education Advocacy For Caregivers



**Simple steps to achieving an
appropriate education for
children with disabilities**



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INTRODUCTION

AS LONG-STANDING ADVOCATES for children with disabilities within foster care, mental health and school systems, we understand how confusing it is to figure out where and how to seek services for the children in your home. This step-by-step guide is intended to give you the tools you need to seek educationally-related services from the school system. This manual is not intended as legal advice, but for practical use by caregivers.

THE TRUTH ABOUT CHILDREN IN SPECIAL EDUCATION: It is important to remember that all children learn in different ways. Being eligible for special education and related services does not mean that the child is “dumb.” It means that the child needs to learn in special ways, or needs special support services to help him or her learn.



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CHAPTER 1: EDUCATIONAL RIGHTS

Educational Rights give you the legal right to make educational decisions for children under the age of 18.

Who is the Educational Rights Holder (ERH)?

- 1) Biological Parents
- 2) Legal Guardians: obtaining guardianship automatically makes you the ERH
- 3) Adoptive Parents: adopting a child automatically makes you the ERH
- 4) Judge Orders: Judges can terminate educational rights of biological parents and appoint a new ERH such as:
 - ◆ Foster Parent
 - ◆ Prospective Adoptive Parent
 - ◆ Person acting as parent (ie relative caregiver)
 - ◆ Court Appointed Special Advocate (CASA)

What you can do as ERH:

- Request Records
- Request Special Education Assessments
- Consent to special education services and placements in the IEP

What if there is no ERH?

- ⇒ **The school district will appoint a Surrogate Parent**
- ⇒ **Surrogate Parents cannot have a conflict of interest with the child, such as working for the district**
- ⇒ **You can request to be appointed as a surrogate parent**

IF YOU ARE NOT THE ERH, you have no authority to consent to the IEP. However, you can still participate in IEPs and a child's education. Questions to think about and information to share with the IEP team:

- ◆ How is the child doing at home?
- ◆ Is he/she telling you about problems at school?
- ◆ Are the problems at school similar to the problems at home?
- ◆ Is the child doing his/her homework?
- ◆ What are you doing that works for the child?
- ◆ What do you need help with?

****WHO HOLDS EDUCATIONAL RIGHTS FOR YOUR CHILD?**

IF YOU DON'T KNOW, OR IF IT IS NOT YOU, ASK THE CHILD'S DEPENDENCY COURT ATTORNEY



CHAPTER 2: GETTING STARTED

What if you think your child has a disability?

- ◆ If you believe that your child has a disability, he or she may be eligible for special education and related services.
- ◆ **This is especially true if your child was previously or currently a Regional Center or Department of Mental Health Client.**

What does a child with an educational disability look like?

- Poor grades or attendance
- Problems with attention
- Problems with memory
- Behavioral problems
- Emotional or social problems
- Speech Problems
- Problems moving normally, such as walking or using a pencil
- Problems seeing or hearing
- Problems performing daily living skills such as dressing or feeding or grooming in an age-appropriate manner

What are Special Education and Related Services?

- ⇒ The child receives an educational program that is individualized to meet his or her unique needs, based on the disability.
- ⇒ This is called a **FAPE: Free Appropriate Public Education**. In order to qualify, the disability must prevent the child from benefiting from his or her education.



WHAT TO DO IF YOU THINK YOUR CHILD HAS AN EDUCATIONAL DISABILITY

STEP ONE: REQUEST RECORDS

- * ERH can request records at any time
- * Requests should be in writing (see sample letter A)
- * The school has 5 business days to get them to you
- * The school can charge copying costs unless it will prevent you from obtaining the records
- * If you cannot afford the copying cost, you may request a FEE WAIVER
- * Foster parents may always request a fee waiver

Records can:

1. Help you better understand your child's needs
2. Show the interventions that have or have not worked in the past
3. Compare old testing to new testing to monitor academic progress
4. Assist a Social Worker or an Attorney in advocating for your child

STEP TWO: REQUEST AN ASSESSMENT

What is an assessment?

- ◆ Assessments gather information about the child to **determine if he/she has a disability**; and if so, what the educational needs of the child are.
- ◆ Assessments are important because they tell you about both the **strengths** and **weaknesses** of the child.

A comprehensive assessment should include:

1. Standardized testing
2. Classroom observations
3. Interviews of child, caregiver, teacher, etc.
4. Review of school records and work samples



Requesting Assessments

1. Write a letter to the school requesting a comprehensive psycho-educational assessment (see sample letter B)
2. The school is required to send you a *written* response within 15 calendar days of receiving your letter (either a specific denial of your request with reasons why they will not assess, or an Assessment Plan)
3. You have 15 calendar days to review, sign and return the Assessment Plan to the school (review the plan carefully to ensure that all areas of suspected disability will be tested and make sure to keep a copy)
4. Once the school receives the assessment plan, the school must complete the assessments and hold an IEP team meeting within 60 calendar days.

TYPES OF TESTS USED FOR ASSESSMENTS:

- 1) Cognitive/IQ
- 2) Academic
- 3) Social, Emotional, Developmental
- 4) Fine and Gross Motor Skills
- 5) Speech and Language
- 6) Hearing and Vision
- 7) Health and Physical Development
- 8) Vocational

TIPS:

- * **Do not agree to schedule a parent teacher conference or attend a Student Study Team (SST) meeting instead of IEP testing.**
- * **In response to your request for an assessment there are only 2 legal options for the district: 1. A written refusal to assess or 2. An Assessment Plan. Do NOT accept any other options!**
- * **Request, in writing on the Assessment Plan, to receive a copy of the assessment 5 business days before the IEP meeting.**
- * **After you receive the result of the assessment, make sure to read it carefully before the IEP.**
- * **Also be sure to prepare questions about things you don't understand for the IEP meeting.**

Q: If my child is already in Special Education, **how often should he or she be tested?**

A:

- ⇒ A child MUST be assessed every 3 years (Triennial Assessment).
- ⇒ A child CAN be assessed up to once per year, if requested by the ERH.
- ⇒ A child SHOULD be tested every year to appropriately track his or her progress.



Sample Letters

SAMPLE A: RECORDS REQUEST

(School District Name)
(School District Address)
(City, State, Zip Code)

Date

Re: *Child's Name & Date of Birth*

Dear Sir or Madam:

I am writing to request the educational records for *Child*. I am *Child's* _____ (*your relationship to child*) and the holder of educational rights. *Child* is in _____ grade at (*school name*) School located within (*school district name*). Please provide me with the copies of the following records within 5 business days of this request:

- 1) All evaluations (psychological, educational, speech etc);
- 2) All IEPs;
- 3) All health records;
- 4) All disciplinary records;
- 5) All Stanford 9 and CAT/6 scores;
- 6) Any and all other records and correspondence directly related to *Child*.

Please forward me all requested student records to: (*your address*). Also, I request that you waive all fees associated with the duplication of these records, as such fees would effectively deny me access to these records.

Sincerely,
Your signature & name

SAMPLE B: ASSESSMENT REQUEST

(Principal Name)
(School & Address)
(City, State, Zip)

Date

Re: *Child's Name & Date of Birth*

Dear Principal _____,

I am writing to request a comprehensive special education assessment for *Child* who is in the _____ grade at (*school name*). I am concerned re *Child's* (insert those which apply: academics, attention, behavior, etc.) *Child* lives at (*address*), within the boundaries of (*school district name*). I am *Child's* _____ (*your relationship to the child*) and the holder of educational rights. Please provide me with an assessment plan within 15 days of this request.

Sincerely,
Your signature & name



CHAPTER 3: INDIVIDUALIZED EDUCATION PROGRAM

What is an IEP?

- ◆ An IEP is a written education plan developed by the school district, professionals, teachers, parents, caregivers, and, when appropriate, the child.
- ◆ IEPs include how the child is currently doing in school, and what everyone involved wants to do for the next school year to improve the child's educational outcomes.

IEPs: When & Why

Generally there are 4 kinds of IEPs:

- 1) **Initial IEP** - To determine eligibility for special education
- 2) **Annual IEP** - Child should have at least one IEP every year
- 3) **Amendment IEP** - Request a meeting when you want to change or modify the existing IEP or if it is not working
- 4) **30-Day IEP** - Must have an IEP within 30 calendar days after any change from one district to a new district in order to discuss placement options and services within the new district

IEPs: Who Attends

Required

- **Educational Rights Holder**
- **General Ed. Teacher**
- **Special Ed. Teacher**
- **School Administrator (i.e., Principal)**

Optional

- **Parent**
- **Current Caregiver**
- **School Psychologist**
- **Child (depending on age)**
- **Social Worker**
- **Other school personnel who provide services (i.e., speech pathologist if child receives speech therapy)**



...IEPs cont...

5 Main Components of an IEP:

There are 5 main parts of an IEP outlined below.
Each will be discussed in the following pages.

- 1) Statement of Eligibility
- 2) Present Levels of Performance
- 3) Annual Goals & Objectives
- 4) Statement of Placement
- 5) Statement of Services

1) CATEGORIES TO BE **ELIGIBLE** FOR SPECIAL EDUCATION INCLUDE:

- SPECIFIC LEARNING DISABILITY (**SLD**)
- SPEECH & LANGUAGE IMPAIRED (**SLI**)
- OTHER HEALTH IMPAIRED (**OHI**)
- VISUALLY IMPAIRED (**VI**) -
- EMOTIONALLY DISTURBED (**ED**)
- TRAUMATIC BRAIN INJURY
- MENTALLY RETARDED (**MR**)
- DEAF/HARD OF HEARING (**DHH**)
- ORTHOPEDICALLY IMPAIRED (**OI**)
- AUTISTIC-LIKE CHARACTERISTIC
- MULTIPLE DISABILITIES

** Remember: one of the above conditions must prevent the child from accessing his/her education in order to qualify.

2) Present Levels of Performance

In an IEP it is important to state how the child is currently doing in all areas where he/she is having problems, including:

- ⇒ **Reading**
- ⇒ **Writing**
- ⇒ **Math**
- ⇒ **Emotionally**
- ⇒ **Behaviorally**
- ⇒ **Language**
- ⇒ **Daily living skills**
- ⇒ **Completing classwork/homework**
- ⇒ **Attendance**

3) Annual Goals & Objectives

These are what the IEP team will work on for the next year to help the child perform better in school.

- They should be easily understandable and measurable (you should be able to figure out whether or not the child is meeting the goals)
- You want at least one annual goal in every area of weakness (see p. 12 for more info.)



...IEPs cont....

More you should know about: Present Levels of Performance and Goals & Objectives

SPECIFICITY!

In both Present Levels of Performance (PLOP) and Annual Goals & Objectives (G/O) the school should identify the specific site of the child's weakness in a given subject area. You should know **exactly** where the child's weakness is.

- Insufficient PLOP: "Johnny is doing poorly in reading." **vs.**
- Acceptable PLOP: "Johnny is at a 2nd grade level in reading decoding and at a 1st grade level in reading comprehension."
- Insufficient G/O: "Johnny will do better in reading." **vs.**
- Acceptable G/O: "Johnny will improve reading decoding skills by one grade level by focusing on decoding 2-3-syllable irregular words."

Comprehensiveness!

The IEP must have a goal for each area of weakness, even if this means the child has 20 goals. Make sure to check that each identified weakness has a thorough and specific accompanying goal.

⇒ **In the example PLOP & "acceptable G/O" given, a second goal must be added for "reading comprehension" in order for those G/Os to comprehensively address the given PLOP**

Areas That Should Be Addressed in Each Subject

<p><u>Reading:</u></p> <ol style="list-style-type: none"> 1) Decoding 2) Comprehension 3) Fluency 4) Phonics 5) Sight Words 	<p><u>Written Language:</u></p> <ol style="list-style-type: none"> 1) Spelling 2) Punctuation & Capitalization 3) Fluency 4) Sentence Structure: simple vs. complex 5) Paragraph Structure: topic sentences, supporting & concluding sentences 	<p><u>Math:</u></p> <ol style="list-style-type: none"> 1) Computation: with or w/out regrouping 2) Word Problems 3) Money/Dollar Sense 4) Time 	<p><u>Social/Emotional:</u></p> <ol style="list-style-type: none"> 1) Attention 2) On-task behavior 3) Attendance 4) Homework/Classwork 5) Social skills 6) Depression etc.
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...IEPs cont...

4) **Statement of Placement: Least Restrictive Environment**

- **Disabled children have a right to participate with general education students (non-disabled) for as much of the school day as he/she is able to. This means the child should spend at least part of the day in general education classes and extracurricular activities.**
- **LREs can be composed of a combination of any of the different types of placements described below as well as the services discussed on the next page.**

DIFFERENT TYPES OF PLACEMENTS INCLUDE:

General Education

- General education is the least restrictive environment
- Students are educated with their general education peers
- **Pros:** students will learn positive peer modeling from their nondisabled peers, by picking up on their good study skills, academics, and/or social relationships
- **Cons:** disabled students may not get the assistance that they require to benefit from their education

Special Day Class (SDC)

- **Restrictive Placement:** students are segregated in a classroom with no general education peers, only disabled peers
- **CAUTION:** These types of placements must be viewed with caution because some placements can function more as a daycare than a classroom for instruction
- Before such placements are agreed upon, the ERH and the attorney should research the placement and possibly visit the placement

Resource Specialist Program (RSP)

- **Students are given more individual attention to address delayed academic or organizational skills**
- **Collaborative:** RSP teacher discusses the child's needs with a general education teacher and gives them pointers on how to help the child in the general education classroom
- **Push-In:** RSP teacher and/or aide go into the general education classroom and assist the child
- **Pull-Out:** student leaves the general education classroom and is taught in another classroom with less students and more individualized attention



...IEPs cont...

<p>5) Statement of Services Available services include:</p> <ul style="list-style-type: none">⇒ Speech and language therapy⇒ Audiological services or therapy⇒ Psychological counseling⇒ Adapted Physical Education⇒ Physical therapy⇒ Occupational therapy⇒ Low vision services or vision therapy⇒ Rehabilitation or vocational services	<p>Special Services include:</p> <ul style="list-style-type: none">◆ Transportation◆ Extended School Year (ESY)
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Important Special Education Rights

Consent: What if you don't agree with all of the IEP?

- If you agree with some parts of the IEP and disagree with others, you may give your limited consent (i.e., you like placement but disagree with the amount of therapy offered).
- Write directly on the IEP page the things you do and do not consent to.
- By writing out your consent, you permit the school to implement the portions of the IEP you agree with while you wait to resolve the issues you disagree with.

PARENTAL PARTICIPATION

- * Parental participation is an important right and is very important at every stage of the IEP process;
- * **Ask questions and provide your own input;**
- * **You are an important member of the IEP team.**

School of Origin (SOO)

- ◆ Children are allowed to stay in the school they started the school year in for the remainder of the school year, even if their home placement changes.
- ◆ This means that if a child is removed from your home, and you retain ed. rights, you make the decision regarding the school that the child attends.
- ◆ DCFS and the school have to work out transportation issues.



CHAPTER 4: LEGAL REMEDIES

IF YOU DISAGREE with the services or placement offered in an IEP or feel like your child's IEP is not being followed, you have two ways to take legal action against the school:

Compliance Complaint

You may file a compliance complaint with the California Department of Education for:

1. **Failure to adhere to legal timelines** (ex. The district did not provide a written response within 15 days of receiving your request for an assessment).
2. **Failure to implement portions of the IEP** (ex. The district failed to give your child speech and language services for the last 2 months, even though it is outlined in the IEP).
3. You do **not** need a lawyer to do this!

Administrative Due Process

- You may sue the school district for failing to provide your child with a FAPE for the following reasons:
 - 1] Not making adequate progress under the current IEP;
 - 2] Failing to identify/address all areas of suspected disability;
 - 3] Failing to offer placement in the least restrictive environment;
 - 4] Procedural errors that amount to: a loss of academic benefit to the child OR a denial of meaningful participation in the IEP process by the parent.
- You do not need a lawyer to do this but the school uses a defense lawyer in these lawsuits.
- We advise that you seek the advice of an attorney or advocate before filing a suit.

To file a Compliance Complaint, write a letter with the following information:

- 1) What the IEP states the school will provide
- 2) What the School is not providing
- 3) What you want to make up for this failure
- 4) Include a copy of the IEP
- 5) Mail to:
Procedural Safeguards Referral Services
Special Education Division
California Department of Education
1430 N Street STE. #2401
Sacramento, CA 95814



CHAPTER 5: RESOURCES AND TIPS

Other Resources

- REGIONAL CENTER:

- AGE 0-3: AT RISK OF BEING DEVELOPMENTALLY DELAYED
- AGE 3-18: DIAGNOSED DEVELOPMENTALLY DELAYED (MR, AUTISM, EPILEPSY ETC)
- AGE 18-ADULT: LACK OF INDEPENDENT LIVING SKILLS
- CONTACT YOUR LOCAL REGIONAL CENTER

- DEPARTMENT OF MENTAL HEALTH (DMH):

- IF THE CHILD'S EMOTIONAL OR BEHAVIORAL ISSUES ARE PREVENTING HIM/HER FROM BENEFITING FROM HIS/HER EDUCATION, REQUEST THAT THE IEP TEAM MAKE AN AB 3632 REFERRAL TO DMH FOR AN ASSESSMENT
- THROUGH DCFS, ASK YOUR CSW FOR A THERAPY REFERRAL

- CALIFORNIA CHILDREN'S SERVICES (CCS):

HELPFUL ADVICE:

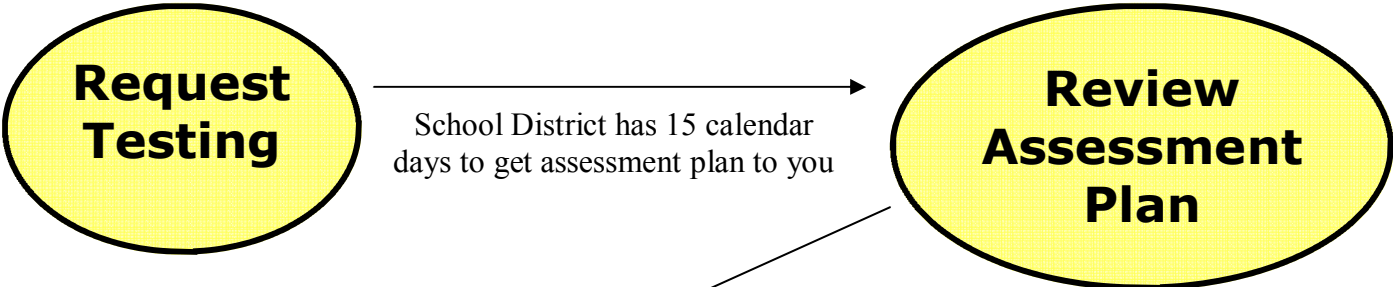
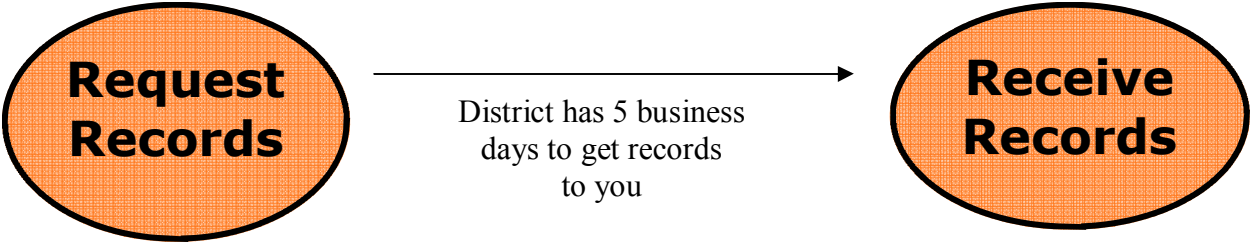
- 1) Put everything in writing
- 2) Keep copies of everything
- 3) Ask questions
- 4) Learn and know your rights
- 5) Learn the needs of your child
- 6) Seek help from and advocate or attorney

ACRONYMS

APE	Adaptive Physical Education
AT	Assistive Technology
CDE	California Department of Ed
CP	Cerebral Palsy
DMH	Department of Mental Health
DIS	Designated Instruction and Services
ED	Emotionally Disturbed
ESY	Extended School Year
FAPE	Free Appropriate Public Education
LEA	Local Education Agency
LRE	Least Restrictive Environment
IEP	Individual Education Program
IFSP	Individual Family Service Plan
IPP	Individual Program Plan
MR	Mentally Retarded
ODD	Oppositional Defiance Disorder
OHI	Other Health Impaired
OT	Occupational Therapy
RSP	Resource Specialist Program
SDC	Special Day Class
SELPA	Special Education Local Plan Area
SL/LAS	Speech and Language
SLD	Specific Learning Disability



SPECIAL EDUCATION TIMELINE



You have 15 calendar days to review assessment plan, have client sign it and fax return to school district

