

Know Your Rights!



Standing Up for Special Education

Individuals with Disabilities Education Act (IDEA)

By law, the IEP team — not district administration — has the power to make decisions for students with disabilities.

California Education Code Section 56046 (a) protects educators and other staff who assist a parent of a special education student from being intimidated, threatened, or coerced by the school district.

§ 300.324 Development, review, and revision of IEP

The IEP Team must consider the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

§ 300.320 Review and revision of IEPs

Districts must ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals described in §300.320(a) (2), and in the general education curriculum, if appropriate.

§ 300.327 Educational placements

Districts must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

§ 300.323 Individualized Education Program

(a) The term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324

§ 300.323 Accessibility of child's IEP to teachers and others

Each public agency must ensure that (1) The child's IEP is accessible to reach regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation;

The fundamental requirement of the IDEA is that the child will receive a **free appropriate public education** in the **least restrictive environment** :

- ⇒ **Least Restrictive Environment (LRE)** – Each child has a right to an education with non-disabled peers to the maximum extent appropriate to the needs of both.
- ⇒ **Free Appropriate Public Education (FAPE)** - Each public school system is responsible for ensuring that each child with disabilities is served appropriately, at no expense to the parent.

Source: 20 U.S. Code § 1412(5)

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Q & A: Teacher IEP Rights

Should I sign an IEP if I did not attend the meeting?

Signing the IEP verifies that you attended the meeting. Only sign if you attended the meeting.

What should I do if I do not agree with IEP and I attended the IEP meeting?

When an educator does not agree with the IEP, you can dissent. Here's how:

1. Vocalize to the IEP team what part of the IEP you do not agree and strongly urge for this to be recorded in the meeting notes.
2. Write the word "dissenting" after their signature on the IEP.
3. Prepare a written report stating your objections to the IEP and ask that it be attached to the IEP.

What should I do if the administrator has reprimanded me for recommendations I made at an IEP meeting?

California Education Code 56046 protects educators and other service providers from retaliation, coercion, intimidation from district administration. Immediately following the event, document the incident. Then talk to your school's Association Representative (AR) about the incident and your rights. (It's a good idea to share this document with your AR.) If your AR would like some advice, she can call an SDEA Contract Specialist. Often districts need to be reminded of the law against retaliation and coercion. If lower level attempts at enforcing your rights don't correct the problem, talk with your AR and SDEA Organizer about reporting violations to the California Department of Education (CDE) procedural safeguards unit.

What should I do if a student with an IEP is not making progress in the educational setting and/or their behavior is having a negative impact on their learning and the learning of others in the class?

The teacher should request in writing an IEP team meeting to review and revise the IEP as necessary to ensure students' academic needs are being met. This can be done anytime there are concerns about the contents or implementation of the IEP.

How much of the IEP should the general education teachers be familiar with?

As a general educator, you are required by law to have knowledge regarding the contents of the IEP for each special education student enrolled in your classes, and you are legally obligated to implement any portions of an IEP that apply to you. To successfully meet this obligation, you should read the IEP for each special education student for whom you deliver instruction in order to fully understand the student's education, their instructional needs, any specific activities that have been assigned to you and your classroom, and what, if any, accommodations or modifications you should implement.

How can I manage accommodations, modifications, and standards?

IDEA requires general educators to implement accommodations and modifications as prescribed by the student's IEP. It is imperative that the general educator participate in the IEP team meeting in order to provide input on the selection, locations, subject areas, and frequency of the accommodations and modifications used in the general education setting.

Who makes the inclusion decisions for students' with disabilities?

Federal law requires that a full continuum of placement options be available to each special education student, and that placement decisions made by the IEP team to include students in the general education classroom be based on the individual and unique needs of the student. Because of their expertise in the curriculum area in which they teach, general educators play a vital role in determining the extent to which students with disabilities can be successful in the general curriculum.

You can also send questions and concerns to the secure CDE email address speceducation@cde.ca.gov