

SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES

Chapter 4

Information on IEP Process

1. What is an Individualized Education Program (IEP) and how do I request one for my child?

An IEP is a written statement that describes your child's present levels of performance, learning goals, school placement, and services. [34 Code of Federal Regulations (C.F.R.) Sec. 300.320.] In order to obtain an IEP, your child must first be evaluated. To request an evaluation, write a letter to the district special education director / coordinator, with a copy to your child's teacher and principal. Tell them that you are concerned about your child's educational progress. Say that you are making a referral for assessment for special education services. You may also want to let the district know that you look forward to receiving an assessment plan within 15 days from the district's receipt of your letter. See *Sample Letter – Request for IEP Meeting*, Appendices Section – Appendix H.

Keep a copy of this request and any other correspondence with the school district. If you call or speak to school staff to make a referral, school district personnel must help you put your request in writing. If the school district refers your child for special education, it is still critical that you follow up with your own written request. Your written referral will ensure that assessment and IEP timelines are followed. [California Education Code (Cal. Ed. Code) Secs. 56029, 56302.1, 56321(a), 5 California Code of Regulations (C.C.R.) Sec. 3021(a).]

In your referral letter, you should also request that your child be assessed under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) to determine whether your child might be eligible for services under that law. If eligible, the school district may be required to provide reasonable accommodations and/or services, including special education services, to allow your child to benefit from school like children without disabilities. These accommodations and/or services may be important if your child does not qualify for special education, or if such accommodations and/or services are, for some reason, not provided under special education. [OCR Memorandum, Letter to Veir, 19 IDELR 876 (April 29, 1993).] See Chapter 1, *Information on Basic Rights and Responsibilities* and Chapter 3, *Information on Eligibility Criteria*.

2. What are the timelines for holding an IEP meeting?

Starting from the date the district receives your written consent to assessment, the assessment(s) must be completed, and the IEP developed at a meeting within 60 calendar days. In counting days, you do not count the days in between regular school sessions or school vacation in excess of five school days. If an initial referral of a student to special education has been made 30 days or less before the end of the regular school year, an IEP shall be developed within 30 days after the beginning of the next school year. [Cal. Ed. Code Sec. 56344 (a).]

3. How do I request an IEP meeting for my child who is already receiving services when I am not also requesting an assessment?

If your child is already receiving services, you can request an IEP meeting whenever you think one is needed in order to review or change the program. You should make a written request to your child’s teacher, principal or special education administrative office. [Cal. Ed. Code Secs. 56343(c) & 56343.5.] If you are requesting an IEP meeting without the need for new assessments (for a child already in special education), the meeting shall be held within 30 days of receipt of your written request (not counting days in between regular school sessions or school vacation in excess of five school days). [Cal. Ed. Code Sec. 56343.5.]

4. How often are IEP meetings held?

An IEP meeting must be held at least annually. In addition, an IEP meeting must be held when a student has received an initial assessment, when he demonstrates a lack of anticipated progress, or when a parent or teacher requests a meeting to develop, review or revise a student's individualized education program. An IEP meeting may also be held each time a student receives a new formal assessment. [Cal. Ed. Code Sec. 56343.]. You should request an IEP team meeting after each new assessment. Neither federal nor state law limits the number of IEPs you may request per year.

5. Can I get copies of assessments before the IEP meeting?

Yes. School districts are required by federal and state law to provide copies of assessments and other educational records before the IEP meeting. [20 U.S.C. Sec. 1415(b)(1); 34 C.F.R. Sec. 300.501; Cal. Ed. Code Sec. 56504.] You should request in writing that all records be sent to you within a reasonable time before the IEP meeting. There are no specific timelines in federal or state law to tell school districts how many days before the IEP meeting they must provide assessments to the parents. However, California law requires that parents be allowed to examine and to receive copies of all school records within five business days from the date the request was made by the parent either in writing or orally. [Cal. Ed. Code Sec. 56504.]

6. Will I receive notice of the IEP meeting?

The school district must take steps to ensure that one or both of the parents of the student attend the IEP meeting or have the opportunity to participate. Your attendance and participation is one of the most important principles of the special education process. Your district must notify you of the IEP meeting early enough to ensure that you have an opportunity to attend. The meeting must be scheduled at a mutually agreed upon time and place. In addition, as part of the notification process, the district must provide you with this information: the purpose, time, and

location of the meeting and who will attend the meeting. The district must also inform you about your ability to invite others who have knowledge or special expertise about your child. [34 C.F.R. Secs. 300.321(a)(6) & 300.322; Cal. Ed. Code Sec. 56341.5.]

7. If I cannot attend an IEP meeting in person, can the district hold the meeting over the telephone?

Parent participation in the development of the IEP is one the most important principles of special education law. In its efforts to ensure that parents attend IEP meetings, the district may hold a meeting over the telephone or through video conference, as long as the parent agrees. While districts may propose that the IEP meeting be held using alternative methods, this should be done only when changes in the IEP are minor. Parents do not have to agree to use these alternative methods and may schedule the IEP meeting at a mutually agreed-upon time and place.

Before a district can hold a meeting without a parent in attendance, it must document its efforts to arrange a mutually-agreed-upon time and place to meet by keeping:

Detailed records of all telephone calls made to the parent and the results of those calls;

Copies of correspondence sent to the home and any responses received; and

Detailed records of visits made to the home or place of employment of the parent and the results of those visits. [34 C.F.R. Secs. 300.322 and 300.328; Cal. Ed. Code Sec. 56341.5.]

8. After my child's annual IEP, must an IEP meeting be held to change the IEP?

Yes. However, the parent and district may agree not to hold an IEP meeting to change the IEP and instead may develop a written document to amend or modify a student's IEP. The parent and district must both agree to make a change in the IEP

in this way. If the parent does not agree, the district must hold a meeting to make changes in the IEP. If changes are made by written document, the district must ensure that the IEP team is informed of the changes to the IEP and must give a copy of the amended IEP to the parent upon request. [34 C.F.R. Secs. 300.324(a)(4) and (6); Cal. Ed. Code Sec. 56380.1.]

9. Who is required to attend the IEP team meeting and what are the members supposed to contribute to the meeting?

The team must include the following people:

- (1) One or both of the child's parents, a representative selected by the parent, or both.
- (2) At least one general education teacher if the child is, or may be, in a general education environment. If the child has more than one general education teacher, the school can select which one attends.
- (3) At least one special education teacher or service provider.
- (4) A school district representative who is: qualified to provide or supervise the provision of specialized instruction; knowledgeable about the general curriculum; and knowledgeable about the resources of the district. Another district member already on the IEP team may serve in this role.
- (5) The individual who conducted the assessments of the student, or someone who is knowledgeable about the procedure used and the results, and is qualified to interpret the instructional implications of the results. Another IEP team member may serve in this role.
- (6) Other people with specific expertise or knowledge of the student, at the parent or district's request. Whether the additional invited person has sufficient knowledge or expertise is decided by the party who invited the person to the meeting.
- (7) The student, when appropriate.

[Cal. Ed. Code Secs. 56341(b) & (e).]