

EDGE

Volume 32, No. 3

Fall 2018

The Special Education Fundamentals of IDEA

Every child with a disability has the right to be educated with his or her grade-level peers without disabilities. This right also applies to children with disabilities who attend charter schools. This right is the law—specifically, the Individuals with Disabilities Education Act (IDEA), which governs and guides the public education of all children with disabilities in the United States. Realizing the vision of IDEA involves having and holding high expectations for each and every student so all students have the opportunity to realize their dreams. What exactly this means—in statute, in intent, and in practice—points to a public education system that supports and ensures equity, access, and inclusion for each and every child and student with a disability by:

- ▶ Ensuring that children and families begin their educational experience in an inclusive, welcoming, and supportive environment beginning in preschool.
 - ▶ Starting with the assumption that a child belongs in a general education classroom and then discussing/designing supports accordingly. If a more restrictive placement is determined to be the most beneficial environment for the child, the system works to provide the student with opportunities to interact with peers without disabilities. The system presumes competence.
 - ▶ Understanding that communicative competence and reading literacy are non-negotiables. Ensuring that all children can communicate and demonstrate what they know, need, and want.
 - ▶ Supporting teachers, related service providers, and school administrators in utilizing the principles of Universal Design for Learning through a multitiered system of supports (MTSS) framework so that all children may access their learning in the most inclusive environment.
 - ▶ Ensuring that all individualized education programs (IEPs), even those in place as early as preschool, are backwards mapped from employment and community inclusion.
 - ▶ Creating a viable path to college and/or employment for all students.
 - ▶ Changing the conversation in schools from “if” to “how”—for example, asking *how* a school team can include students with disabilities rather than *if* they can include students with disabilities.
 - ▶ Knowing that language matters. Updating how we talk about students with disabilities by using the following guidelines:
 - ▶ Eliminating such labels as “special education student,” “sped kids,” and “special needs students.” Using “student first” language instead and avoiding unnecessary labels.
 - ▶ Eliminating student labels that are driven by titles for teacher credentials: e.g., “mild to moderate” and “moderate to severe.”
 - ▶ Changing from talking about “my students” to talking about “our students.”
- There has never been a better time than now to ensure that children and all people with disabilities are able to realize their greatest potential. Collectively we can make a difference.



This “back to basics” issue of The EDge offers an overview of special education—what the law says parents, teachers, and school administrators need to know and do in order to educate students with disabilities and what the law looks like when applied in a spirit of collaboration within this state, and with the goal of ensuring school success for all students.

What's Inside . . .

Family-School Partnerships	3
IDEA Basics	
<i>Child Find</i>	4
<i>Assessment/Evaluation</i>	6
<i>The Individualized Education Program—IEP</i>	8
<i>Free and Appropriate Public Education—FAPE</i>	10
<i>Least Restrictive Environment—LRE</i>	12
<i>Procedural Safeguards</i>	14

Insert: The Annual Report from the California Advisory Commission on Special Education

Letter from the State Director

Recent issues of *The Edge* have highlighted a number of the new initiatives and upgrades to our statewide system of support that promotes the vision of one coherent system of education in California. In this pursuit of a system that connects general and special education, we've discussed the importance of ensuring consistent accountability measures for local educational agencies across programs; strategic, systemwide interventions and collaboration that resist targeting special education in isolation; and efforts to build a service delivery system flexible enough to ensure that we can address the needs of each and every student, regardless of labels or degree of need. In this climate of creativity and change, however, we must simultaneously honor the tenets and entitlements fundamental to the Individuals with Disabilities Education Act (IDEA)—the basic building blocks that effectively serve our students with disabilities—and preserve their rights under that law.

This issue of *The Edge* takes us back to the basics and covers critical components of IDEA, from implementing “child find” activities to offering a free, appropriate public education in the least restrictive environment. The following pages are designed to serve as easy-to-read checklists that summarize important legal mandates governing rights and responsibilities under IDEA.

In the midst of change, it is important to remember that IDEA affords students with disabilities unique rights and protections that are not negotiable. Ensuring compliance with the law requires gaining a familiarity with its provisions, along with the law's intent or “spirit.” But while IDEA seeks to ensure that all students have access to and receive benefit from their public education, no law is perfectly clear. Because IDEA does not spell out what access and benefit should look like in every case, fulfilling the intent of the law requires thoughtful conversations tailored to the individual needs of each student.

IDEA is clear, however, on the importance of schools, families, and community partners collaborating to support students with disabilities throughout their educational journey and into adulthood. The conversations central to these collaborative efforts will be more productive and fruitful when all parties are familiar with their legal rights and responsibilities. With that in mind, this issue of *The Edge* can be an effective tool for anyone involved in educating or supporting a student with a disability.

California takes seriously its commitment to ensuring compliance with each provision of IDEA—while simultaneously pursuing the continuous improvement of our state system of education. We dream big for each and every student. So periodically we regroup ourselves in the requirements of the law to ensure we are mindful of the foundation on which our system was built.

—Kristin



Kristin Wright: Director, Special Education Division, CDE

Lorraine Hope: CDE Contract Monitor and Project Liaison

Stacey Wedin: CDE Liaison and Editorial Consultant

Connie Silva: CalSTAT Project Manager

Mary Cichy Grady: Editor

Giselle Blong: Editorial Assistant

Janet Mandelstam: Staff Writer and Copy editor

Geri West: CalSTAT Content Consultant

Juno Duenas: Contributor

Joe Doyos: Contributor

Nina Boyle: Contributor

The Edge is published three times each year by the Napa County Office of Education's CalSTAT Project (California Services for Technical Assistance and Training).



Funding is provided by the California Department of Education, Special Education Division, through contract number CN077046 with Napa County Office of Education (NCOE). Contents of this document do not necessarily reflect the views or policies of NCOE or the California Department of Education (CDE), nor does mention of trade names, commercial products, or organizations imply endorsement. Circulation: 51,000. The information in this issue is in the public domain unless otherwise indicated. Readers are encouraged to copy and share but to credit CalSTAT and CDE. This issue is available on disk, audiotape, and in large print upon request. By going to CalSTAT's Web site—www.calstat.org/infoPublications.html—you can download PDF and text versions of this and previous newsletters. To subscribe, contact *The Edge* by telephone at 707-849-2275; by e-mail at giselle.blong@calstat.org; or by postal mail at *The Edge*, c/o NCOE/CalSTAT, 1450 Technology Lane, Suite 200, Petaluma, CA 94954.

Ensuring Success for All Students: Family-School Partnerships

“In this complex world it takes more than a good school to educate children. And it takes more than a good home. It takes these two major educational institutions working together.”

Those words by the late Dorothy Rich, an early advocate for parental participation in children’s education, may have seemed radical when she was a teacher in the 1950s. But research during the past several decades has shown that when families and schools work together, all students—with and without disabilities— benefit in many ways.

Countless studies show a direct correlation between parental involvement and student learning.

When parents are involved, “students’ grades, test scores and participation in the classroom improve.” Researchers cite additional benefits as well: “fewer special education placements, higher attendance and lower dropout rates and a reduced likelihood of engaging in high-risk behaviors.”¹

Legal Underpinnings

Not only is family involvement a good idea, it’s mandated by law. California’s Local Control Funding Formula requires local educational agencies (LEAs) to involve parents in planning and decision-making, and in developing their Local Control and Accountability Plans, one of the rare examples of an accountability system that includes family engagement. And the Individuals with Disabilities Education Act (IDEA) obligates schools to include parents in decisions affecting the education of their children with disabilities.

1. Christenson, S., et al. (2003). Critical issues facing families and educators. *Laboratory for Student Success Review*, 2(1).

Conclusive Effectiveness

Beyond legal requirements, LEAs seeking to increase their collaboration with families will find numerous evidence-based underpinnings for family involvement and engagement.

- The Harvard Graduate School of Education produced a series of briefs that studied family involvement from preschool through high school and concluded that “cumulative evidence from several decades of research points to several benefits of family involvement for children’s learning, including helping children get ready to enter school, promoting their school success, and preparing youth for college.”²



- Longitudinal studies of student outcomes by the National Network of Partnership Schools (NNPS) at Johns Hopkins University demonstrated that “in elementary, middle, and high schools, family involvement had positive effects on achievement in math, reading, and science, attendance, behavior, homework completion . . . and other indicators of success in school.”³ NNPS uses its research to develop tools and
2. The briefs in the series *Family Involvement: What Does Research Say* can be found at <https://www.gse.harvard.edu/news/uk/06/07/family-involvement-what-does-research-say>
 3. *A Research-Based Approach to School, Family, and Community Partnerships* from the National Network of Partnership Schools is at <http://nmps.jhu.edu>

guidelines for use in schools and LEAs to promote the development of family and community partnerships.

- Researchers at the Southwest Educational Development Laboratory in Austin, Texas, synthesized the results of more than two dozen studies on the impact of school, family, and community connections on student achievement. They reached two key findings:

1. “The evidence is consistent, positive, and convincing: many forms of family and community involvement influence student achievement at all ages.”
2. “When programs and initiatives focus on building respectful and trusting relationships among school staff, families, and community members, they are more effective in creating and sustaining connections that support student achievement.”⁴

What’s Working

Closer to home, the California Department of Education and WestEd produced *Family Engagement Framework: A Tool for California School Districts*,⁵ which

describes expectations and offers strategies to plan, implement, and evaluate family engagement programs “to support student achievement and close the academic achievement gap.”

The framework’s authors reviewed recent pertinent literature on family-school partnerships and compiled a list of activities associated with student achievement.

4. Henderson, A. T., Mapp, K. L. (2002). *A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement*. Southwest Educational Development Laboratory. Retrieved from <https://www.sedl.org/connections/resources/evidence.pdf>
5. *Family Engagement Framework: A Tool for California School Districts* is at <https://www.cde.ca.gov/ls/pf/pf/documents/famengage-frameenglish.pdf>

Suggestions for how school districts can promote and monitor the participation of families to meet and go beyond the legal requirements include training teachers and principals in effective parental involvement practices, facilitating two-way communication, involving families in developing school policies and programs, and ensuring that families have the tools they need to help students with their schoolwork.

While the strength of family-school partnerships varies from district to district, a 2016 report from the Public Policy Institute of California, *Family Engagement Practices in California Schools*,⁶ identified promising strategies at 15 school districts around the state, all of which had a known focus on engagement, in order to present replicable practices. For example, after tracking family engagement for several years, the Redwood City School District decided to focus its effort on reading in elementary schools. During the 2014–15 school year, one school implemented a family reading and comprehension program and collected data about family members' interaction with students at home. Results showed that students whose families participated in the reading program made "substantially larger gains in literacy during the school year" (page 23).

The report emphasizes the importance of preparing both schools and families to work together. That includes training school staff on how to engage families of different cultural backgrounds, creating a welcoming environment for parent participation, and offering multiple opportunities for

6. *Family Engagement Practices in California Schools* is at http://www.ppic.org/content/pubs/report/R_616RLR.pdf

We know that children do better in school if parents are involved,

families to be involved in substantive roles beyond assisting in classrooms.

While these strategies are intended to benefit all families and students, preparing parents of students with disabilities for their part in the family-school collaboration is the mission of the state's Family Empowerment Centers and nonprofit organizations such as Support for Families of Children with Disabilities in San Francisco and Parents Helping Parents (PHP) in San Jose.

"We know that children do better in school if parents are involved," says Jane Floethe-Ford, director of education services at PHP. "So many decisions are being made for children with special needs. The school sees only a percentage of the child; the parent has a better holistic view, and they need to feel that what they know is of value."

In many cultures, Floethe-Ford says, "It is hard for parents to make requests, to disagree." PHP staff is fluent in multiple languages and, in addition to helping parents understand their rights and responsibilities, helps them learn

how to communicate their vision for their children's education. An added benefit of this "collaborative communication," says Floethe-Ford, is that disputes are less likely to become contentious.

While research on the efficacy of school-family partnerships continues apace, the results of more than 30 years of study are in. "Those of us in the education community know that family engagement is one of the single most important factors in helping students succeed in school," State Superintendent of Public Instruction Tom Torlakson writes in his introduction to the framework.

When schools welcome families in meaningful ways, and when parents engage in their children's education, everyone benefits: school staff, parents, and especially students.

Resources

Culturally Responsive Family Engagement

Practices from the Education Development Center is at <http://ltd.edc.org/culturally-resp-family-engagement>

Family Engagement: A Guild, a TASC resource, is at http://expandedschools.org/sites/default/files/TASC_FamilyEngagement_Resource%20Guide.pdf

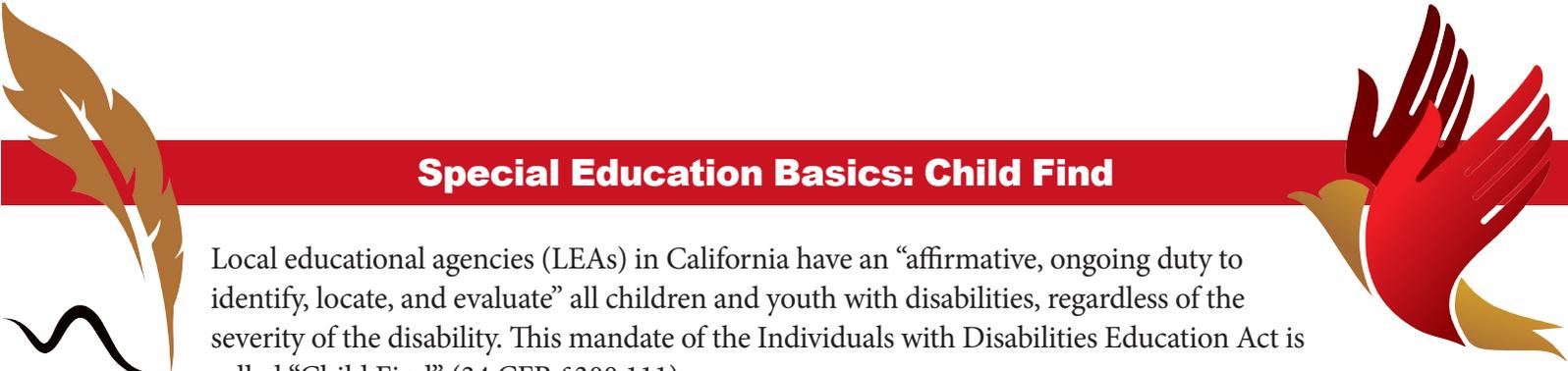
Family Engagement in Schools Matters, from the California PTA, is at <https://capta.org/focus-areas/family-engagement>

Family Engagement Toolkit, from the Build Initiative, is at <http://www.buildinitiative.org/Resources/FamilyEngagementToolkit.aspx>

Family Resource Centers and Parent Training and Information Centers in California are listed at <https://www.cde.ca.gov/sp/se/qa/caprntorg.asp>

Supporting Authentic Family Engagement, from the Office of Head Start is at https://childcareta.acf.hhs.gov/sites/default/files/public/supporting_authentic_family_engagement.pdf





Special Education Basics: Child Find

Local educational agencies (LEAs) in California have an “affirmative, ongoing duty to identify, locate, and evaluate” all children and youth with disabilities, regardless of the severity of the disability. This mandate of the Individuals with Disabilities Education Act is called “Child Find” (34 CFR §300.111).

The Letter of the Law

The Child Find mandate:

- Includes children, birth through age 21**, who are suspected of having a disability.
- Exists for every child with a disability**, even if the child is transient, a member of a migrant family, homeless, or a ward of the state; and even if the child is attending a private school.
- Requires LEAs to identify, locate, and evaluate all** children with disabilities.
- Allows parents to formally request an evaluation** for a possible disability if the parents have reason for concern (34 CFR §300.301).
- Allows LEAs to decline to conduct an evaluation for special education** (34 CFR §300.503), provided the LEA gives the parents a written notice that includes the reason for refusal and notification of their *procedural safeguards*; (see page 15).
- Is an ongoing obligation.** If a child has been evaluated but no disability was determined, the child can be evaluated again if there is reason to suspect a disability at a later date (34 CFR §300.303).

Resources

The exact language of Child Find in IDEA is at <https://sites.ed.gov/idea/regs/b/b/300.111> California Education Code addresses Child Find in Section 56301: <https://codes.findlaw.com/ca/education-code/edc-sect-56301.html>

Answers to “What Is Child Find?” are at <http://www.wrightslaw.com/info/child.find.index.htm>

The Spirit of the Law

The spirit of Child Find rests on the known value and lifetime benefits of early intervention. “Catching them before they fall” is a metaphoric hallmark of good, first instruction, as is universal screening. When babies and young children show signs of developmental delay, they and their families receive Early Start services through IDEA Part C (see “A Closer Look,” next page). When older children start to struggle in school, they should receive interventions and supports as soon as possible in the general education classroom. Response to intervention (RTI) evolved out of the known value of screening and evaluating every child regularly and often so that students do not have to fail before they receive the kind of help they need.

A **multitiered system of supports** (MTSS) framework in schools may facilitate quality Child Find practices. MTSS provides a coordinated and targeted “tier” of responses to students who need extra support, whether or not they have a disability, are suspected of having one, or are just struggling. California has invested millions of dollars to develop MTSS statewide so that students receive effective interventions at the first sign of an academic or behavioral problem, and so that a student who has a disability is identified and served.

Child Find also invokes the critical importance of **good relationships and valued partnerships** among parents, caregivers, educators, and school administrators, as these good relationships will help ensure that warning signs are not missed. With authentic family-school partnerships, every child will have the opportunity to grow, thrive, and realize his full potential.

Resources

Read more about *Early Interventions: The Key to Success* at https://ldaamerica.org/wp-content/uploads/2014/10/LDA_Webinar.Early_.Intervention.10.14.FINAL-.pdf

More about MTSS in California is at <http://www.ocde.us/MTSS/Pages/CA-MTSS.aspx>

The seminal article, “Catch Them Before They Fall,” is at <https://www.aft.org/sites/default/files/periodicals/torgesen.pdf>



Ensuring Child Find

Some children start their lives with a diagnosed disability (children who are blind, for example). They typically enter school with their special education services and supports clearly identified and already in place. Other students with a recognized disability may require no special education services at all (a student with mild cerebral palsy, for example). Still others may make reasonable progress in the classroom until they reach a certain grade or subject and only then start to fall behind because of a late-developing or late-identified disability. This range of possibilities must be set within the context of human **growth and development**. The many possible challenges that any one child might face make it all the more important for parents and educators to focus on the unique needs of each child, not on labels or categories, when considering the possible presence of a disability.

Child Find is a responsibility of LEAs to identify each child who may have a disability, and to evaluate the child for the presence of a disability. Child Find is not a requirement, however, to find a disability (34 CFR §303.322).

Professional Learning

Educators and school staff are responsible for ensuring that all children receive the help they need to succeed in school, and they are obliged to alert parents and school administrators of any reasonable concern when a child fails to make progress academically or starts to show behavioral issues. Training and awareness will help to ensure that those children who need extra help are identified and receive the support they need to succeed in school, whether or not a disability is the cause.

While formal screening for a disability requires parental consent, comprehensive professional learning among all school staff can ensure that every adult at the school whether they work in the lunchroom or the classroom, knows the signs of a disability. With this knowledge, school staff will be on the alert, screening informally as they observe and interact with children.

Being Responsive

When a child has a disability and is not “found” or identified, or when parents “show that school officials overlooked clear signs of the disability and were negligent by failing to order testing, or that there was no rational justification for not deciding to evaluate,”¹ the child’s parents may have a legal case for

1. Torgut, T. D., & Nix, J. E. (2012). “The Helter Skelter World of IDEA Eligibility for Specific Learning Disability: The Clash of Response-to-Intervention and Child Find Requirements.” *Journal of the National Association of Administrative Law Judiciary*, 32(2).

procedural violation. As a way to avoid this problem, many LEAs provide immediate, targeted interventions and recommend an evaluation when there are any signs that a student is falling behind. A student shouldn’t have to fail before he gets help.

RTI and Child Find

Many LEAs in California coordinate their resources, instruction, and academic and behavioral strategies through a multitiered system of supports (MTSS) framework that uses a response to intervention (RTI) approach designed to help students with suspected disabilities succeed, especially those with learning disabilities. RTI gives students who are struggling additional academic support. LEAs, however, cannot use the provision of RTI as a reason to delay or deny “a timely initial evaluation” to determine if a child has a disability.²

MTSS also uses a team approach to instruction and incorporates the expertise of special education personnel in general education settings. A speech pathologist who leads a reading group, for example, is in a perfect situation to identify a child who may need extra help and who may have a reading or learning disability.

Resource

Reasons for Concern lists the risk factors and warning signs of a disability. Find this brochure at https://www.dds.ca.gov/earlystart/docs/ReasonsForConcern_English.pdf

2. See the OSEP memo on RTI at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/oseprtipsreschoolmemo4-29-16.pdf>



A Closer Look

The Individuals with Disabilities Education Act (IDEA) provides important **early**

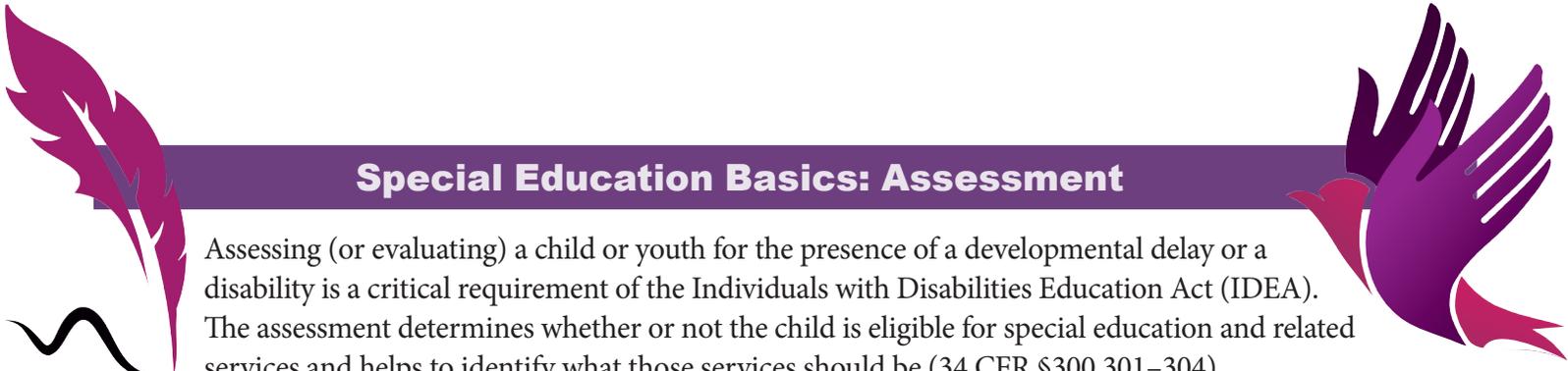
intervention services and supports to very young children—ages birth to 3—who have or may have a disability. The law’s Child Find mandates for this age group are different from those for older children.

IDEA Part C and Child Find

- ▶ The Child Find obligation for very young children appears in IDEA Part C, which in California is called “**Early Start**.” Services for children ages 3 through 21 are in IDEA Part B.
- ▶ Part C requires an evaluation for the presence of a **disability or developmental delay** when there is reason for concern. If a disability or delay is found, **the child and the child’s family** must receive early intervention services and supports.
- ▶ Part C provides **transition support** to

children and families as a child turns 3 and becomes eligible for IDEA Part B services.

- ▶ Before children who receive Part C services turn 3, they are re-assessed to determine their continued eligibility for special education using Part B criteria.
- ▶ Read more about IDEA Part C at https://sites.ed.gov/idea/files/Final_Regulations_Part_C_Guidance.pdf



Special Education Basics: Assessment

Assessing (or evaluating) a child or youth for the presence of a developmental delay or a disability is a critical requirement of the Individuals with Disabilities Education Act (IDEA). The assessment determines whether or not the child is eligible for special education and related services and helps to identify what those services should be (34 CFR §300.301–304).

The Letter of the Law

- A Local Educational Agency (LEA) must assess a child for the presence of a disability before the initial provision of special education and related services.
- LEAs must obtain informed consent from the parent of the child before conducting an assessment (34 CFR §300.300[a] & 34 CFR §300.9).
- LEAs must develop and propose an assessment plan within 15 days of when a student is referred for an assessment, unless the parent agrees in writing to an extension (California Education Code [EC] 56043[a]).
- A parent has at least 15 days from receiving a proposed assessment plan to consent to the plan (EC 56043[b]).
- An LEA has the right to decline to conduct an evaluation for special education (34 CFR §300.503), provided the LEA gives the parent a written notification of the reason for refusal and of their procedural safeguards.
- The assessment process must (34 CFR §300.304):
 - ▶ Address all areas related to the suspected disability.
 - ▶ Use knowledgeable and trained evaluators.
 - ▶ Use a variety of instruments and measures to gather information.
 - ▶ Use evaluation instruments that do not discriminate based on race or ethnicity.
 - ▶ Gather relevant information from a variety of sources.
- After an assessment, the evaluation team will:
 - ▶ Offer a recommendation about whether the student has a disability (34 CFR §300.306[a][1]).
 - ▶ If the student does have a disability, recommend whether the disability requires special education and related services (34 CFR §300.306[c][2]).
- The first meeting of the Individualized Education Program (IEP, see page 9) team must take place within 60 days of the school receiving the signed assessment plan (EC 56043[c]).
- If a child is found to have a disability according to the definitions in IDEA, LEAs must re-assess the child at least every three years unless the parents and the LEA agree otherwise. This includes children who enter school with an identified disability and those who are diagnosed later (34 CFR §300.303[b][2]).
- After the assessment determining eligibility for services under IDEA, and with the consent of the child's parent, LEAs must provide the child with special education supports and related services through an IEP, and those services must begin as soon as possible (34 CFR §300.306[c][2] & 34 CFR §300.323).
- Parents have the right to disagree with the results of the assessment by sending to the school in writing the reasons they disagree. They also have the right to request an Independent Educational Evaluation (34 CFR §300.502; IEE, see page 15).
- If a due process complaint is filed to resolve a disagreement, the LEA and IEP team must first work with the parent to resolve differences (34 CFR §§300.507–516).
- If the team and the parent cannot reach an agreement through negotiation, the issue may be resolved through an impartial due process hearing (34 CFR §300.511[c]; see “Due Process,” page 16).

Resources

To learn more about what to expect in the special education evaluation process, go to <http://www.pacer.org/parent/resources/understanding-the-spec-ed-process.asp>

A full list of the categories of disabilities under IDEA is at <https://www.parentcenterhub.org/categories/>

The Spirit of the Law

A formal evaluation for the presence of a disability is **only one part of a school's responsibility** to evaluate students. Both formal and informal assessments should be an ongoing practice throughout the school year, providing current and accurate records of any challenge the child is facing or developing, and noting a child's progress and successes.

The formal follow-up assessments that are required when a child has a disability are designed to make sure that the student is still receiving appropriate supports and services and to give educators a gauge for adjusting those services if the student's needs, abilities, or challenges have changed since the initial assessment.

Child/Student Study Teams (SST) can serve an important and helpful role throughout the process of considering the presence of a disability and then formally evaluating a child. These teams include parents, students, teachers, and educational specialists working together to assist students in general education who are not progressing satisfactorily.

When parents or educators ask for an assessment for a disability, the team may respond immediately to the parents' request and screen the child. They also may put in place extra supports and accommodations to help the child succeed, even if no specific disability is identified through an evaluation. Using the SST process and assessing a student for a disability also can happen at the same time. If a child has a disability, there should be as little delay as possible in providing the services needed.



Making Student-Centered Decisions About Assessment for Special Education

When teachers or parents start talking about the possibility of a child having a disability, no one should be surprised, not even the student. The conversation should develop out of regular and ongoing discussions about how the child is progressing in school.

MTSS and Assessment

Ideally, all students are given the learning and behavioral supports they need within a system of quality first instruction, backed by levels or tiers of more targeted supports for the many ways that students might need extra help. This tiered model—multi-tiered system of supports, or MTSS—is designed to efficiently coordinate and leverage all of an LEA's resources so that all students receive research-proven instruction; each student's progress is monitored; data informs all instructional decisions—and there rarely are surprises.

MTSS is also designed to reduce any need to rely on “the discrepancy model,” which requires a student to be two or more years behind his grade-level peers before qualifying for special education services and supports. Decades of research show that with this kind of delay, a child

rarely catches up to his peers.¹ MTSS, implemented with fidelity, prevents delays in intervening to provide whatever help a child needs whenever he needs it, whether or not he has a disability. If a child receives all available general education supports and interventions and still continues to struggle, then parents and staff assess the child for a disability, knowing that they have done everything they could do to support the student in the classroom up to that point.

Assessing in All Areas

The law says a child must be assessed in all areas of suspected disability. If a child is to be assessed, the assessment should be as thorough as possible, especially given the tremendous human cost over a lifetime if a school misses a key part of what is preventing a child from succeeding.

Family members typically know their child better than anyone else. Families should not be discouraged from requesting an assessment if they are convinced that a disability is the cause of their child's school struggles.

Resources

Resources for assessing culturally and linguistically diverse young children with disabilities are at <http://ectacenter.org/topics/earlylid/diverse.asp>

Formative Assessment for Students with Disabilities from the Council of Chief State School Officers is at https://ccsso.org/sites/default/files/2017-12/Formative_Assessment_for_Students_with_Disabilities.pdf

¹ See “The IQ Achievement Discrepancy Model,” at <https://iris.peabody.vanderbilt.edu/module/rti01/cresource/q1/p02/>

A Closer Look

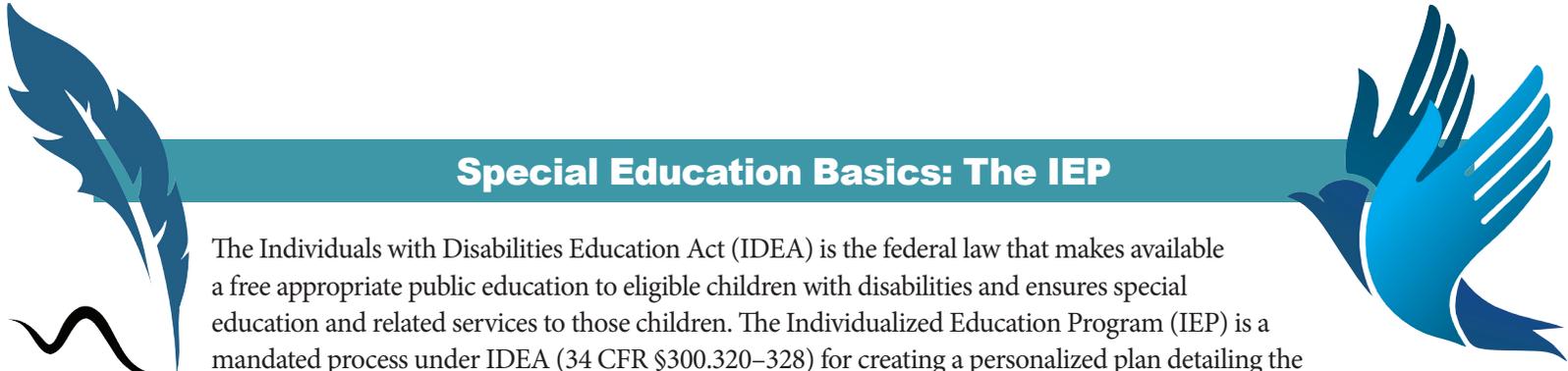
How a Student Is Screened for the Presence of a Disability

An evaluation for a disability must include assessment in all areas that are a cause for concern.

These can include:

1. **Physical skills** (reaching, crawling, walking, drawing, building)
2. **Cognitive skills** (thinking, learning, reading, remembering, paying attention)
3. **Communication skills** (talking, listening, understanding others)
4. **Self-help or adaptive skills** (eating, dressing)
5. **Social or emotional skills** (playing, interacting with others)
6. **Sensory processing skills** (handling textures, tastes, sounds, smells)

The evaluation may include tests, observations, interviews, response to intervention, and medical information, depending upon the specific concerns and the evidence that documents those concerns.



Special Education Basics: The IEP

The Individuals with Disabilities Education Act (IDEA) is the federal law that makes available a free appropriate public education to eligible children with disabilities and ensures special education and related services to those children. The Individualized Education Program (IEP) is a mandated process under IDEA (34 CFR §300.320–328) for creating a personalized plan detailing the special education supports and services necessary for students with disabilities to access their education.

The Letter of the Law

- ❑ The IEP must (34 CFR §300.320):
 - ▶ Describe the student’s **current level** of academic achievement and performance.
 - ▶ Include a statement of **measurable annual goals and objectives for the year**, including academic and functional goals.
 - ▶ Specify the **services, supports, and accommodations** the school will provide and where they will be provided.
- ❑ The first planning meeting for the IEP must take place **within 60 days of the school receiving the assessment plan** signed by the parents (California Education Code [EC] 56043[c]).
- ❑ The **IEP team** must be made up of the following people (34 CFR §300.321):
 - ▶ The **parents** of the student with a disability
 - ▶ Whenever appropriate, the **student** with a disability
 - ▶ At least one of the student’s **general education teachers**
 - ▶ At least one **special education teacher** or, where appropriate, at least one of the student’s special education **service providers**
 - ▶ A **representative of the local educational agency (LEA)** who can ensure the provision of specially designed instruction and who knows the general education curriculum and the resources of the LEA
 - ▶ Someone who can **interpret the instructional implications of evaluation results**
 - ▶ At the discretion of the parent or the LEA, **other individuals who have knowledge or special expertise about the student**
- ❑ The team **must meet at least once a year** to revise the IEP according to the progress the student is making towards the specified goals (34 CFR 300.324[b][1][i]), but can meet more often if necessary.
- ❑ **By the time a student turns 16**, the IEP must include “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills” (34 CFR §300.320[b][1]).

The Spirit of the Law

The authors of IDEA affirmed the reality that each person with a disability possesses a unique set of strengths, challenges, and needs. As such, IEPs were conceived as vehicles that **reflect that individuality for each student**.

A number of important sources of information can inform the IEP. The **assessments** that qualified the student to receive special education services in the first place are important references and critical in establishing present levels of performance. **Students themselves** should also participate in the development and focus of the IEP’s goals—specifically, highlighting what they do well, what their interests are, what motivates them, and what they want to do “when they grow up.” Few students, with or without disabilities, know the answers to these questions early in their school careers. But asking them early and continuing to ask them—and providing information and offering experiences that are appropriate—can help students grow into their own answers.

The student’s **parents** are also vital sources of information and important partners in developing the IEP. They are a child’s first and most important teachers, and they know the child better than anyone. They are also in a position to echo and reinforce at home all of the important school lessons that can contribute to the student’s success.

Focusing IEP meetings on a **student’s progress and strengths** rather than solely on the disability is another way to capitalize on what is working and to generalize one success into other areas. A strengths-based approach also helps the student see herself in a positive light. And it helps everyone on the team pinpoint what is working.

Resources

“Writing Strength-based IEPs for Students with Disabilities in Inclusive Classrooms” is at https://rdw.rowan.edu/cgi/viewcontent.cgi?article=1016&context=education_facpub
More information about IDEA is at <https://sites.ed.gov/idea/about-idea/>



Supporting the Development of Great IEPs

How do LEAs successfully manage to create effective, collaborative, student-driven IEPs and avoid legal disputes? Some LEAs report doing the following:

Welcome and Inform Parents

When a school or LEA organizes and promotes information sessions and support meetings for parents and families, these parents and families get the message that family partnerships are valued. Districts and schools can also send this message by

connecting parents and families with local Family Empowerment Centers, where they can get support and information from other parents. Schools and districts can also signal authentic partnership by accommodating parents' schedules when setting the day and time for any meeting involving their children, especially IEP meetings.

Share Meeting Information Ahead of Time

School staff should be sure that parents receive meeting notices and evaluation reports well in advance of an IEP meeting. Time to read and process the report makes it possible for parents to more effectively participate in the meetings.

A clear structure and agenda for the meeting is another important courtesy, helping to put everyone at ease. Inviting

introductions at the beginning of a meeting, establishing a clear agenda (one that opens with authentic, positive news about the child, or with the child herself or himself talking about what she or he likes and wants), and making the meeting's objectives clear help to keep everyone focused on the child.

Attend to Language, Culture

Local educational agencies have an opportunity to empower and support parents who do not speak English by providing them with translators and their child's IEP in their home language. Making available these kinds of supports is the law (5 C.C.R. 3040(b)), and it also sends a clear message that these families are welcomed and valued. The importance of being able to communicate and partner with families cannot be overstated.

Students' Involvement in Their Own IEPs

A Closer Look

There are numerous benefits to involving students directly in their own IEP meetings:

- They become more knowledgeable about their disability, their rights, and the accommodations they need.
- Their self-confidence increases.
- They develop self-advocacy skills.
- They learn how to interact positively with adults.
- They assume more responsibility for themselves.
- They become more knowledgeable about available resources.
- They start to take ownership of their education.
- They begin to see themselves as agents of their own futures.

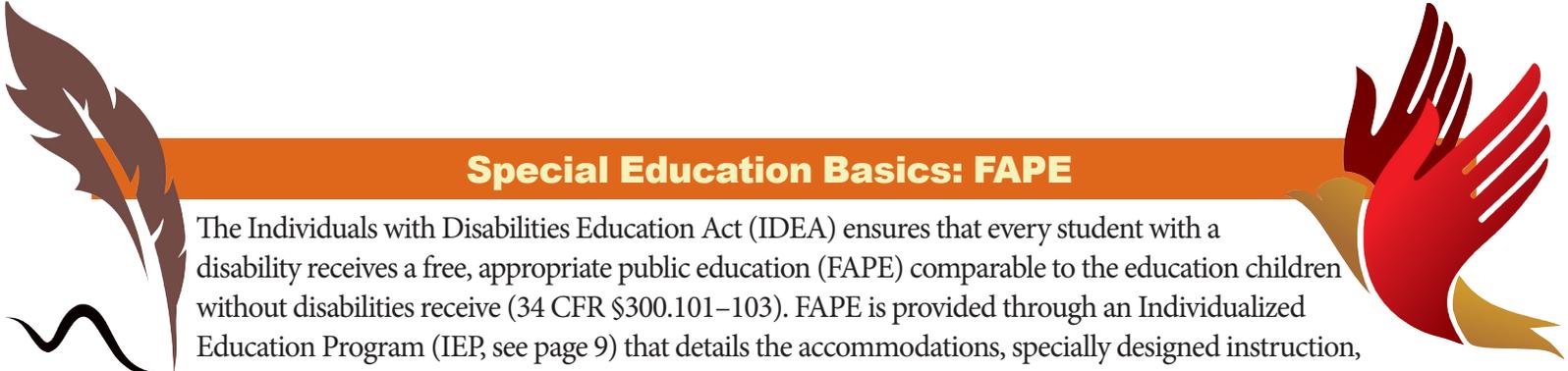
A gradually increasing level of involvement for most students is recommended. Include them in the meetings at the youngest age possible, and then let them take a greater leadership role as their school years progress. As they grow in ability and

confidence, most students eventually can start leading their own transition planning meetings and have direct and active roles in planning their lives after high school.

The following resources are designed to guide students, parents, and teachers in student-led and student-involved IEPs:

- **How to Help Students Lead Their IEP Meetings**, at <http://www.ciclt.net/ul/mgres/2.HowtoHelpStudentsLeadIEP.pdf>
- **Students Determined to Take Control of Their IEPs and Their Lives**, at <https://www.imdetermined.org/quick-links/modules/module-four/>
- **Creating Change: Student-Led IEPs and Youth Engagement as a Dispute Resolution Option**, a webinar from CADRE available through <https://www.parentcenterhub.org/student-led-ieps-dispute-resolution/>





Special Education Basics: FAPE

The Individuals with Disabilities Education Act (IDEA) ensures that every student with a disability receives a free, appropriate public education (FAPE) comparable to the education children without disabilities receive (34 CFR §300.101–103). FAPE is provided through an Individualized Education Program (IEP, see page 9) that details the accommodations, specially designed instruction, and environment that make it possible for students with disabilities to benefit from their education.

The Letter of the Law

Free Appropriate Public Education:

- Applies to all children and youth with disabilities** between the ages of 3 and 21, inclusive (34 CFR §300.101[a]).
- Is provided **at public expense** (34 CFR §300.17[a]).
- Is **provided by the student’s school and local educational agency** (LEA; 34 CFR §300.17[c]).
- Means that **all children with disabilities “are educated with children who are nondisabled;** and [that] special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily” (34 CFR §300.114).
- Addresses the unique needs of each student with a disability (as identified by evaluations, observations, and the Individualized Education Program team, see page 8) by providing supports and services that address **the ways the disability is interfering with the child’s ability to benefit** from his or her education (34 CFR §300.320[a][1]).
- Is **spelled out in an IEP** (34 CFR §300.320).
- Is provided in the **least restrictive environment** (LRE, see page 12; 34 CFR §300.114).
- Ensures that the student is **involved and makes progress in the general education curriculum** (34 CFR §300.320[a][2][i][A]).
- Ensures that each student receives **reasonable educational benefit** from his or her schooling.¹

1. Supreme Court ruling *Endrew, F., v. Douglas County School District*. See https://www.supremecourt.gov/opinions/16pdf/15-827_0pm1.pdf

The Spirit of the Law

While the first word of FAPE is “free,” FAPE **does not mean that students with disabilities and their families never have to pay for anything** related to school. If students without disabilities are required to pay student fees, for example, or to purchase special materials, students with disabilities may have these same costs.

The individual needs of a student determine what FAPE looks like. So FAPE is different for every student. Those differences hinge on the word “**appropriate.**” Understandably, the supports that are appropriate for a child with a speech and language disability may not be appropriate for a child who is blind or who has an orthopedic impairment. And even within the same disability category, two students may have greatly different needs. What is “appropriate” is determined through evaluations, conversations among members of the IEP team, and the student’s response over time. And **what is appropriate should be expected to change** as the child grows, develops, and learns. That is why ongoing assessments, both formal and informal, are important, as are IEP team meetings, where team members can consider goals, progress, and adjustments to a student’s services and supports. These meetings should be conducted at least annually.

While “appropriate” is a highly subjective word, the law does state that an LEA is *not* required to provide the best possible educational program for every child, only one that **meets the unique needs of the child and demonstrates educational benefit**. A recent Supreme Court ruling² also specifies that **the student must make educational progress**.

The purpose of public education is **to enable all children to develop their potential and to prepare them for employment and adult life**. When considering FAPE, the IEP team must examine every related service, accommodation, and modification to each child’s program in the light of helping the child progress toward grade-level achievement and, more importantly, college or career readiness, employment, and adult life.

2. See <https://sites.ed.gov/idea/files/qa-endrewcase-12-07-2017.pdf>



Making Student-Centered Decisions About FAPE

The *appropriate* part of FAPE presents its greatest challenge. The challenge is for parents and professionals to reasonably and collaboratively define what children require in order to benefit from their education, and then to determine how to provide it and ensure and demonstrate progress. How they amicably arrive at these decisions requires authentic family-school partnerships (see article page 3).

Considering the Whole Child

The Local Control Funding Formula targets additional dollars for LEAs to close the achievement gaps of students who traditionally under perform: those who are learning English as a second language, who live in foster care, and who come from socio-economically disadvantaged backgrounds. Many students with disabilities also fall into these categories. As such, schools may be able to take advantage of LCFF resources to secure services that will directly

benefit students with disabilities. How LCFF resources can specifically be used to support students with disabilities will be different in each LEA, but it's important to remember that all students are general education students first.

Statewide Improvements

Two additional efforts in California promise to strengthen authentic and effective FAPE for students. The well-funded initiative to develop and sustain an effective multitiered system of supports (MTSS) in LEAs across the state holds great promise for ensuring that every child receives the most appropriate and targeted supports to make progress in school and succeed in life. The social-emotional and behavioral components of MTSS can advance significantly each student's degree of college and career readiness.

Recent changes to teacher credentialing represent the second potential boon to addressing teacher shortages specifically and to ensuring FAPE overall. Credentials are being redefined, and teacher competencies have become less focused on labels and more on expanding the ability of all teachers—general education and special education—to recognize and address the unique needs of most students. (For more about credentialing changes, go to the https://www.ctc.ca.gov/docs/default-source/commission/agendas/2018-08/2018-08-2e.pdf?sfvrsn=f5c150b1_2)

New teacher preparation requirements are also ensuring that educators enter their careers prepared to use data to inform their instructional decisions, understand and employ response to intervention (RTI) approaches to instruction, work collaboratively in teams—general educators and special educators together—within MTSS structures to make full use of each other's expertise, and co-teach and team teach. As a result, new teachers will be better prepared to readily and expertly address the needs of more students, regardless of label and placement. The goal is for all students to receive an appropriate education.

Resources

Section 504 of the Rehabilitation Act also ensures FAPE. Read more at <https://www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html>

The **LCFF priorities** are designed to address the needs of the **whole child**.

To read more and access resources, go to <https://www.cde.ca.gov/eo/in/lcff1sys-resources.asp>

Who Is Responsible for FAPE and How to Document Your Concerns is available at <http://www.wrightslaw.com/info/fape.sped.failed.htm>

California Commission on Teacher Credentialing at <https://www.ctc.ca.gov>





Special Education Basics: LRE



The Individuals with Disabilities Education Act (IDEA) requires schools to educate students with disabilities in the “least restrictive environment” (LRE), that is, to give these students the opportunity to be educated with their peers without disabilities to the greatest extent appropriate and possible (34 CFR §§300.114–120). LRE also means that the child with a disability must be educated in the classroom or setting where he or she will be most likely to achieve the greatest academic progress.

The Letter of the Law

“Least restrictive environment” means the following:

- Students with disabilities must be **educated “to the maximum extent appropriate” with students who do not have disabilities** and in a general education classroom (34 CFR §300.114 [a][2][i]).
- A school may not remove a student from the general education classroom **unless he or she cannot realize educational benefit** in that setting, “even with the use of supplementary aids and services” (34 CFR §300.114 [a][2][ii]).
- A local educational agency (LEA) must offer a “**continuum of alternative placements**” that range from least restrictive (the general education classroom) to increasingly more restrictive: a resource room, a special day class, a special school, homebound services, or hospital or institution; and students must receive appropriate supplementary services in any placement (34 CFR §300.115).
- A placement decision for a student must be determined by a “group of persons, including the parents, and other persons knowledgeable about the child,” the evaluation data, and the placement options, as well as by **each student’s individual needs** (34 CFR §300.116[a]).
- A student’s placement must be “**as close as possible to the child’s home**” and “in the school that he or she would attend” if the child did not have a disability (34 CFR §300.116[b–c]).
- Students with disabilities have the right, to the maximum extent appropriate, to be included in the **extracurricular activities and programs** of general education (34 CFR §300.117).

Resource

An Office of Special Education Programs (OSEP) letter on LRE is at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/guidance-on-fape-11-17-2015.pdf>

The Spirit of the Law

The goal of LRE is to educate students with disabilities in the most inclusive educational environment where each student is most likely to thrive. By law, the IEP (see page 8) team decides the student’s placement. So an effective IEP process is central to ensuring LRE. When deciding about placement, the IEP team must take into account the student’s unique strengths and needs. Team members must first make every effort for a student with an IEP to receive his or her education in the general education environment with support. If this has been tried and the student is not able to make progress, alternative placements may be considered.

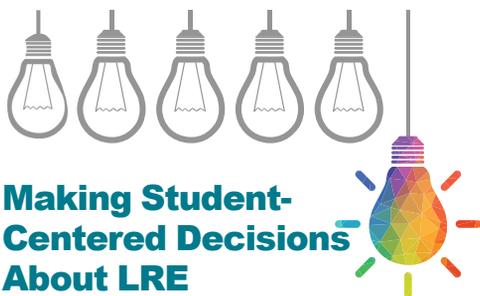
IDEA’s clear preference, however, is to **keep students with disabilities with their peers without disabilities** as much as possible, challenge them academically, and provide them with opportunities to grow socially and emotionally. As such, it is important for school and district teams to make available, and then for IEP teams to regularly revisit, the **full continuum of placements and services** so that no single decision is a permanent, lifetime placement, IEP teams can fully assess the growth and progress of each student, and the student is supported and challenged throughout his or her educational career.

Resources

Considering LRE in Placement Decisions, at <https://www.parentcenterhub.org/placement-lre/>

IDEA on the continuum of placements, at <https://sites.ed.gov/idea/regs/b/b/300.115>

What Is Inclusion? at <https://iris.peabody.vanderbilt.edu/module/inc/cresource/q1/p01/>



Making Student-Centered Decisions About LRE

IDEA states, “Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by . . . ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible.”

Benefits of Inclusion

Ensuring that students with IEPs have access to education within the general education setting involves more than academic opportunities. “Courts have long recognized that there are noneducational benefits to inclusion that are important to the quality of life of children with disabilities—such as the opportunity to make friends and increase acceptance among their peers. . . . Federal law thus recognizes and supports inclusion because of the developmental, educational, and social benefits that inclusion provides to children with disabilities.”¹

1. ECTA Center. (2014). Determining Least Restrictive Environment (LRE) Placements for Preschool Children with Disabilities. Retrieved from <http://ectacenter.org/~pdfs/topics/inclusion/determining-lre-placements.pdf>

Unified Systems

In the past, special education has been treated as a separate educational initiative and defined more as a place—a resource classroom, a special day class, a nonpublic school setting—with its own set of teachers and administrators. Current efforts nationally and in California are working to recover the original intents of IDEA and to place special education squarely within the context of general education as an important and integral part of the entire system. California’s Scale-Up MTSS Statewide initiative² and the Supporting Inclusive Practices (SIP) project³ are two examples of this statewide effort.

MTSS and LRE

MTSS presumes that all students, including those with disabilities, participate in the core, general education curriculum and are given the opportunities and supports they need to succeed in the general education classroom. One underlying principle of MTSS is the value of early intervention at the first signs that a student needs extra help, regardless of the student’s age or the issue at hand. Effective interventions and supports for all students in general education classrooms are shown to reduce the need for more intensive

2. Read about MTSS in California at <http://www.ocde.us/MTSS/Pages/default.aspx>

3. Read about SIP at <https://www.rcoe.us/student-program-services/supporting-inclusive-practices-sip-project/>

supports later in a child’s schooling, particularly in the area of learning disabilities.⁴

Since MTSS is structured around the needs of individual students, not disability or ability labels, not all students who receive intensive supports are identified as students with disabilities, and not all students identified with a disability are given intensive supports. MTSS applies the principle of individualization and least restrictive environment to all students.

Inclusion and LRE

Even though IDEA does not define the word “inclusion,” the law’s clear preference is for students to be educated with their general education peers. The influence of truly inclusive settings and environments, however, extends well beyond students with disabilities. “Effective models of inclusive education . . . create an environment in which every student, including those who do not have disabilities, has the opportunity to flourish.”⁵ In inclusive settings, the focus is always on each individual student and what that child needs in order to benefit from school.

4. National Center for Learning Disabilities. (2014). The state of learning disabilities. www.nclld.org/wp-content/uploads/2014/11/2014-State-of-LD.pdf

5. Inclusive Schools Network. Together We Learn Better. <https://inclusiveschools.org/together-we-learn-better-inclusive-schools-benefit-all-children/>

A Closer Look

IDEA has a “least restrictive environment” mandate for the education of infants, toddlers, and preschool children as well as for those of school age. In fact, one of the indicators for how well LEAs are implementing the provisions of IDEA is the rate of preschool LRE.

In California, IDEA-mandated Early Start (ages 0 to 3) has a “Natural Environment” requirement similar to the LRE. A “natural environment” includes a child’s home, “community settings in which children without disabilities participate,” and settings such as child care “that are natural or normal for the child’s

Early Childhood LRE

age peers who have no disabilities.”

For a toddler or preschooler with a disability, LRE can be achieved in an Early Head Start or a Head Start classroom, a state-funded preschool offered by the public school system, a local district-funded preschool, a private preschool, or a group child care home or center.

The reasons for not including toddlers or young children with disabilities in these settings are the same as they are for older children: “only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily” (34 CFR §300.114).

For more information on the value of preschool inclusion and LRE, read:

- ▶ A joint policy statement from the U.S. Departments of Education and Health and Human Services on the importance of including children with disabilities in early childhood programs, at <https://ed.gov/policy/speced/guid/earlylearning/joint-statement-full-text.pdf>.
- ▶ A more recent affirmation letter from OSERS on this topic is at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/preschool-lre-dcl-1-10-17.pdf>.



Special Education Basics: Procedural Safeguards



The Individuals with Disabilities Education Act (IDEA) gives certain rights to children with disabilities and their families through procedural safeguards (34 CFR §§300.504–518), which ensure that certain things happen at specific times in a child’s schooling: when the child is assessed for a disability; when the child’s eligibility for special education services is determined; when the child’s educational placements, supports, and services for special education are decided; and when disputes occur.

The Letter of the Law

Parents of students with disabilities (and students with disabilities over the age of 18) have the following rights:

- To **access, review, and obtain copies** of their child’s educational records (34 CFR §300.613).
- To **participate** in the development of the IEP and to be informed of all program options and alternatives (34 CFR §300.322).
- To receive “**prior written notice**” (34 CFR §300.503[a]) whenever a school proposes to initiate or change, or refuses a request to initiate or change, the identification, evaluation, or educational placement or the provision of FAPE.
- To consent (34 CFR §300.300). Parents must provide informed, written consent before their child is assessed or provided with any special education services and before any change in special education services may occur.
- To **refuse** to consent (34 CFR §300.300 & EC §56346). Parents may refuse to consent to an assessment or to the placement of their child in special education.
- To be given a nondiscriminatory assessment using methods that are not culturally biased (34 CFR §303.304).
- To receive an **Independent Educational Evaluation** (IEE; 34 CFR §300.502) at public expense if they disagree with the results of the assessment conducted by the local educational agency (LEA).
- To maintain the child’s current program if there is a disagreement about placement (also referred to as IDEA’s “stay put” or “pendency” provision: 34 CFR §300.518).
- To be given a **hearing to address disagreements** about an IEP (34 CFR §300.507 & §300.511).
- To receive **mediation** that would allow them to settle disagreements about their child’s special education program (34 CFR §§300.506–508).
- To **file a complaint** against their child’s LEA (34 CFR §300.153).
- To **be informed** of any school disciplinary actions and alternative placement (34 CFR §300.530[h]).

The Spirit of the Law

Understanding and navigating a child’s disability often requires a family to complete numerous sets of tasks, understand a great deal of information, and address challenges for which family members may have no experience—all of which can be difficult to manage. **Knowing whom to talk with first** as soon as questions or problems arise can be extremely helpful for family members. State- and federally funded family centers serve as important sources of information, support, and community for families (see #7 in “A Closer Look” on the next page).

When differences do arise, most families and district staff find it more helpful—and certainly less expensive and less stressful—to **build relationships** and work out differences as a team rather than file a complaint. The most helpful focus in any effort to resolve conflict is the student. By keeping the welfare the child as the primary interest, everyone involved should be able to resolve even the most contentious differences.

The ability to resolve conflict requires knowledge and skill. Some family centers offer IEP trainings and communication workshops for both parents and educators; and some Special Education Local Plan Areas (SELPA) provide workshops on such resolution techniques as facilitated IEPs and mediation.

Resources

The California Department of Education lists a **summary of the rights of parents** at <https://www.cde.ca.gov/sp/se/qa/pssummary.asp>

Special Education Rights and Responsibilities, by Disability Rights California, is at <https://www.disabilityrightsca.org/system/files/file-attachments/504001Ch01.pdf>



Making Decisions About Procedural Safeguards

Building and maintaining good relationships is the best way to support students. Yet mistakes and disagreements happen, and procedures can be misunderstood or overlooked. Formal legal battles, however, are always costly in terms of both time and money; and they typically harm relationships. Working to resolve issues by finding a reasonable compromise—one that honors the concerns of family members, respects the challenges that educators face, and works reasonably within available resources—is generally the best strategy for everyone.

Alternative Dispute Resolution (ADR), offered by many SELPAs across California, is designed to support the best results for everyone involved, settle disagreements related to special education, and find mutually agreed-upon solutions for student services before a disagreement becomes contentious and litigious.

ADR can accomplish the following:

- ✓ Preserve relationships between parents and educators
- ✓ Enhance opportunities to resolve issues early in the procedural safeguard process
- ✓ Increase positive outcomes for students
- ✓ Reduce the number of due process mediations and hearings

If disputes cannot be resolved informally or through ADR, parents and students can always file a state complaint or due process complaint.

State Complaint

A state complaint is a formal request to the California Department of Education (CDE) to investigate allegations of noncompliance with federal or state special education laws. The CDE conducts an investigation into the allegations and then, if violations of law are found to have occurred, issues corrective actions to the LEA. More information about the state complaint process can be found at <https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp>.

Due Process

When disagreements about what is contained in the IEP cannot be informally resolved, IDEA gives parents the right to file a due process complaint and ask for an administrative hearing. In California, the Office of Administrative Hearings contracts with the CDE to conduct hearings. In particular:

- ✓ Due process includes **mediation and other complaint-resolution strategies**.
 - ✓ Due process is a **formal approach** to resolving disputes with a school about a child's education.
 - ✓ A parent can file a due process complaint **only for special education disputes**, not for general education issues.
 - ✓ Due process has four primary steps: (1) It begins with a written due process complaint; (2) is followed by a resolution session held by the LEA when a parent files a due process complaint; (3) if no resolution is reached, moves forward to a mediation session; and (4), if no resolution is reached during mediation, concludes with an administrative hearing.
 - ✓ The plaintiff has the right to an impartial hearing officer and to present evidence and witnesses at the due process hearing.
- Read more about due process hearings and associated procedures at <http://www.dgs.ca.gov/oah/SpecialEducation.aspx>

When the IEP Doesn't Seem to Be Working

A Closer Look at What Parents Should Do

What are the steps parents should take if their child with a disability continues to struggle in school?

1. Parents will first want to talk with their child's **classroom teacher** and share their specific concern. A conversation with a special education service provider (e.g., speech therapist, resource specialist, occupational therapist) also can help a parent understand what additional supports could be put in place.
2. Parents can call an Individualized Education Program (IEP) team meeting to collaboratively discuss why their child continues to struggle and to assess whether or not the IEP plan is as appropriate and effective as it might be, given the student's needs.
3. Parents will also want to make school administrators aware of any serious concern. For example, whether or not the principal is directly involved in resolving the issue, both parents and staff who are communicating about

- the concern should copy the principal on any formal communications, including emails, and keep him or her informed. As well, the school district's **director of special education** can provide the next level of support and guidance if an IEP team is having difficulty coming to agreement about a student's program.
4. The school district's **Special Education Local Plan Area (SELPA)** can also provide informal assistance for resolving differences of opinion about issues of evaluation, placement, and the services and supports the school can or should provide for the student. Every local educational agency belongs to a SELPA in order to receive funding under IDEA.
 5. The **Procedural Safeguards and Referral Services (PSRS)** Unit of CDE's Special Education Division provides information and resources about the educational rights of children from ages 3 through 21 (phone 800-926-0648; or email speceducation@cde.ca.gov). Because the CDE can sometimes make phone calls to school district personnel to review and

- resolve differences, families will want to contact this office if they have questions and concerns that they feel have not been answered locally.
6. The **Office of Administrative Hearings** manages due process hearings for disagreements between the families and the LEA regarding assessment, identification, or placement of a student that cannot be resolved locally through relationship building, dispute resolution, or mediation (phone 916-263-0880 or visit <http://www.dgs.ca.gov/oah/SpecialEducation/AboutUs.aspx>).
 7. For general support and information, parents of children with disabilities, or those who suspect their child may have a disability, will want to contact their local **Family Resource Center, Family Empowerment Center, or Parent Training and Information Center**. A list of these centers in California is at <https://www.cde.ca.gov/sp/se/qa/caprntorg.asp>.