



Improving outcomes for people with developmental disabilities

❖ Special Education

Background

In California, special education is governed by both state and federal laws. These laws ensure that children who qualify for special education services “have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living”. C.F.R. §300.1(a). These services are provided at no cost to the parents. Special education and related services should be provided in the least restrictive environment (LRE), meaning to the maximum extent appropriate, all students with disabilities should be educated with students who are non-disabled. This includes educational settings, as well as non-academic and extracurricular settings. Special education services can be provided to qualifying students with disabilities from birth to graduation, or up to their 22nd birthday. The Individuals with Disabilities Education Act (IDEA) is the federal law that governs the provision of special education services by states and public agencies.

Eligibility

Under federal and state laws, a child may be considered eligible to receive special education services if s/he meets each of the following criteria:

A) Has one or more of the following conditions:

- Autism;
- Deaf-blindness;
- Deafness;
- Emotional disturbance;
- Hearing impairments;
- Mental retardation;
- Multiple disabilities;
- Orthopedic impairment;
- Other health impairment (includes ADD/ADHD);
- Specific learning disability;
- Speech or language impairment (in voice, fluency, language, and/or articulation);
- Traumatic brain injury;
- Visual impairment; (C.F.R. §300.8)

In California, a child may also be found eligible under the category of established medical disability, which is defined as a disabling medical condition or congenital syndrome that the individual education program (IEP) team determines has a high predictability of requiring special education and services. Cal. Ed. Code §46441.11(d)

B) and, who by reason thereof, needs special education and related services. (Examples of related services includes, but is not limited to speech therapy, occupational therapy, physical therapy, nursing services,)

C) and requires instruction and services which cannot be provided with modification of the regular school program in order to ensure that the individual is provided a free appropriate public education. Cal. Ed. Code §56026(b).

How to Make a Referral for a Special Education Assessment

Anyone can request a special education assessment. This includes parents, school personnel, clinicians, social workers, and others. Referrals for a special education assessment should be made in writing and include the following:

- Referral date.
- The child's name, and if applicable, current grade and school.
- A statement indicating concern about the child's educational progress.
- A statement indicating that the letter serves as a formal request for special education assessment.
- The child's disability or suspected disability (if available).
- A referring clinician may also want to include a release of information statement that is signed by the parent.

Once a referral has been received, the school district has **15 days** to provide parents with a written assessment plan. Parents then have **15 days** to sign and return the plan. Once the signed assessment plan is received, the district has a total of **60 days** from the *date of receipt of the referral* to complete all assessments and hold an Individualized Education Program (IEP) meeting. Copies of the referral letter and all subsequent correspondence to and from the school district should be kept and organized.

The Individualized Education Program Process

Special education services and supports are negotiated through the Individualized Education Program (IEP) process. The IEP is a written contract that reflects the student's educational program. It is developed by a team of people, which must include the parents. The IEP documents the findings of assessments; the child's present level of educational performance; areas of strengths and needs; educational goals; and details the special education and related services that the school district will provide. An IEP cannot be implemented until a parent signs that they are in agreement. If a parent does not agree with an IEP, they can file a compliance complaint or request due process.

The Role of the Health Care Clinician

Health care providers can provide: independent assessments; recommend goals and objectives; support their recommendations with research, observations, or testing; make specific recommendations for educational placements; and appropriate referrals for service and advocacy. The most helpful documentation is very specific, individualized to the patient's unique needs, and well justified.

Appeal Process

There are two types of appeals in the IEP process. Compliance complaints may be filed when the educational agency has violated special education law or procedure or has not implemented what is already specifically written into a student's IEP. A due process hearing may be requested when there is a disagreement among IEP members about what should go into a child's IEP (including supports and services) or where the IEP should be implemented.

For More Information

For more information on special education (including timelines and the appeal process):

- Disability Rights California: www.disabilityrightsca.org/pubs/504001SpecEdIndex.htm
- The Individuals with Disabilities Education Act: <http://idea.ed.gov/>

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