

# Special Education FAQ



Frequently Asked Questions  
About Special Education



California Teachers Association  
Instruction & Professional Development



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STATEMENT OF INTENT

The Special and Alternative Education Committee (SAE) is hopeful that, whether you are a new or an experienced educator, this material addresses your needs. We are committed to strengthening the bond between general and special educators. Together we can enhance the teaching and learning of all of California’s public education students.

In excess of 630,000 students in California are identified as students with disabilities. Approximately 70% of these students are mainstreamed into general education classrooms. Because we all come into contact with children with disabilities, it is important to be familiar with federal law and the California State Education Code’s impact on students with exceptional needs. The intent of the SAE Committee was to develop practical information about Special Education for general education teachers. The guide contains answers to some of the most frequently asked questions about Special Education by general educators. A glossary, an acronym list common to special education, and several internet resources are included.

Classroom teachers and SAE Committee members Carolyn Blevins, Angela Marese Boyle and Patty Arvin played an instrumental role in the genesis and writing of this document. Gene Huguenin from the Legal Department and Craig Nelson of the Instruction and Professional Development Department assisted in the development of this material. A special thank you to Jackie Hanna and Eileen Jurkovich for the format and design of this document.



In 1975, the United States Congress enacted Public Law (PL) 94-142, or the Education for All Handicapped Children Act. It was the first federal law to ensure that students with exceptional needs would be guaranteed a free and appropriate public education. In 1990, the name was changed to Individuals with Disabilities Education Act. The focus of the IDEA was to provide disabled students access to an education. Prior to 1975, thousands of disabled students were barred access to America's schools. In 1997, the Congress passed the Reauthorization of the IDEA and it was signed into law by President Clinton on June 4, 1997. The 1997 Amendments to the IDEA shifted the focus from mere access to improving teaching and learning in the general curriculum for disabled students.

### What is Special Education?

Special Education means specifically designed instruction and related services, at no cost to the parent, to meet the unique educational needs of individuals with exceptional needs, whose educational needs cannot completely be met with modification of the general instructional program. Special Education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment. This instruction can include a special education classroom, general education setting, pull-out program, home instruction, instruction in hospitals and institutions.

Education Code\* (Ed. Code)  
§56031 - 34 Code of  
Federal Regulations (CFR) -  
Part 300.26\*\*



### What Is the Individuals with Disabilities Education Act (IDEA)?

For most of our nation's history, schools were allowed to exclude certain students, especially those with disabilities. Since the 1960s, there has been a great deal of federal legislation that relates directly or indirectly to individuals with disabilities. Additionally, court decisions rendered at the state and federal levels now protect the rights of students with disabilities and guarantee a free and appropriate public education. In 1975, Congress passed PL 94-142, "The Education for All Handicapped Children Act." This legislation mandated for the first time a free and appropriate education for all students with disabilities (FAPE), ensured due process rights, mandated Individual Education Programs (IEPs) and instruction in the Least Restrictive Environment (LRE). PL 94-142 has been the core of federal funding for Special Education. In 1990, the Congress added amendments to this law and renamed it the "Individuals with Disabilities Education Act" (IDEA). The 1997 Amendments to the IDEA (PL 105-17) is the current law.

Ed. Code §56000 Public Law 105-17

\*California Special Education Programs: A Composite of Laws, Education Code - Part 30, Other Related Laws, and California Code of Regulations - Title 5, Twenty-First Edition, California Department of Education, Sacramento, 1999.

\*\*Federal Register Part II, Department of Education, 34 CFR Parts 300 and 303; Assistance to States for the Education of Children With Disabilities and the Early Intervention for Infants and Toddlers With Disabilities; Final Regulations March 12, 1999.



## What is the difference between federal law and state law regarding students with disabilities?

The U.S. Congress enacted PL 94-142/ PL 105-17, now called the Individuals with Disabilities Education Act. California has also enacted laws that parallel the IDEA, which provide the basis for services in the state.

The federal and state laws contain most of the provisions governing the delivery of special education and related services. The Federal and State Departments of Education have also created regulations under the authority of the IDEA.

It is important to note that because of the Supremacy Clause of the United States Constitution, federal law and regulations must be followed whenever there is a conflict between state and federal law, except when the state grants more rights to the individual.

Ed. Code §56000 and following 34 CFR Parts 300 and 303

## What are the principles of the IDEA?

The IDEA establishes six guiding principals that are key to understanding the intent and spirit of the law. They are the following:

- Free and appropriate public education (FAPE)
- Appropriate evaluation
- Individualized education program (IEP)
- Least restrictive environment (LRE)
- Parent and student participation in decision making
- Procedural safeguards

PL 105-17



## How does the IDEA define a student with disabilities?

According to the IDEA, students with disabilities are those who have one or more of the following disabilities: mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities.

Ed. Code §56026 and 56441.11 34 CFR Part 300.7

## Who is responsible for providing special education services for students with disabilities?

Local school districts are responsible for providing appropriate special education instruction and related services. Generally, services may be provided by the local school district, special education local plan area (SELPA), state school or certified non-public agency. Consult your site administrator or special education teacher to learn more about the delivery of special education services at your school site.

Ed. Code §56360, 56361, 56361.5, 52860  
34 CFR Part 300.361

## What are related services and who is responsible for providing them?

Related services, as defined by the IDEA, mean transportation and such developmental, corrective and other



supportive services as are required to assist a student with a disability to benefit from special education. These include speech/language pathology and audiology services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, social work studies, adapted physical education, counseling and guidance services and medical services for diagnostic or evaluation purposes. California calls related services "Designated Instruction and Services" (DIS). Normally, the local school district is responsible for providing DIS at no charge to the parent.

Ed. Code §56363 34 CFR Part 300.24

### How is a student referred for special education services?

The IDEA requires that before a student can receive special education instruction and related services, they must receive a "full and comprehensive evaluation." For a student evaluation, the IDEA requires the following:

- parental consent for the initial evaluation of the student
- nondiscriminatory evaluation
- evaluation by a team
- evaluation of the student in all areas of suspected disability
- use of more than one procedure to determine the student's educational program
- assessment in the native language or mode of communication of the student

Ed. Code §56029, 56320-56329 34 CFR Parts 300.24 and 300.531 - 300.533



The IDEA requires that every student who qualifies for special education have an IEP. An IEP is a written Individualized Education Program designed to meet the unique needs of a student with a disability. It is a mandated document that spells out the education plan and related services a student with disabilities will receive. This document is developed and reviewed by an IEP team.

### What must an IEP include?

The IDEA requires the following to be included in a student's IEP:

- Present levels of educational performance-How is the student presently doing in school? What are their strengths and weaknesses? What skills need to be addressed? How does the student's disability affect their participation and progress in the general curriculum?
- Annual goals-The IEP must determine appropriate annual goals. The goals must be measurable and have benchmarks or short-term objectives. The goals must relate to helping the student be involved and progress in the general curriculum. The IEP must have a statement of the special education and related services and supplementary aids which are to be provided. Contained in the IEP must be an explanation of the extent to which the student will not participate with students without exceptional needs in the general classroom and extracurricular activities.
- A statement of any modifications in the involvement of the student in any state or district-wide assessments.



- A statement of evaluation procedures and procedures for reporting student progress.
- The projected date for the beginning, frequency, location and duration of services.

Ed. Code §56340-47 34 CFR Parts 300.340 - 300.350

### Who are the participants on the IEP team?

The participants on the IEP team include the following:

- The parent(s) or guardian(s) of the student with a disability.
- A general education teacher(s) of the student (if the student is, or may be, participating in the general education curriculum).
- At least one special education teacher.
- A representative of the Local Education Agency (LEA) who is qualified to provide or supervise specially designed instruction.
- An individual who can interpret the instructional implications of evaluation results and who can make the necessary curriculum modifications (e.g., psychologist, special education teacher).
- At the discretion of the parents, other individuals who may have knowledge or special expertise regarding the student.
- If appropriate, the student.

Ed. Code §56341 34 CFR Part 300.344

### What is the role of the IEP team?

The IEP team develops, reviews, and/or revises the IEP of an individual with



exceptional needs. Each member serves an important function, as they are knowledgeable about the student and the services that could benefit the student.

Ed. Code §56341 34 CFR Part 300.343

### What is the role of the general education teacher at the IEP meeting?

The general education teacher participating in the IEP meeting should be the teacher(s) who is (are), or may be, responsible for implementing the IEP. IDEA 1997 emphasizes the importance of the participation of the general education teacher. The general education teacher assists in developing behavioral interventions and strategies, the determination of program modifications and most importantly, how best to instruct the student in the general education program.

Ed. Code §56341 34 CFR Parts 300.444(a) (2) and 300.346 (d)

### If teachers are unable to attend the IEP meeting, how do they know what it contains?

A copy of the IEP is to be maintained at each school site. The California Education Code mandates that prior to the student's placement, the special education teacher or general education teacher be knowledgeable of the IEP. Check with your special education teacher for specific procedures used at your school site.

Ed. Code §56347  
34 CFR Part 300.342



### What "special factors" are to be considered by the IEP team?

Special factors to be considered are the following:

- The student's language needs if the student has limited English proficiency
- Providing instruction in Braille if the student is blind or visually impaired
- Determining communication needs if the student is deaf or hearing impaired
- Assessing whether the student requires "assistive technology"

Ed. Code §56345 34 CFR Part 300.346

### Who can initiate an IEP meeting?

The parent/guardian, general education teacher, special education teacher, or administrator may request an IEP meeting.

Ed. Code §56343 (c) 34 CFR  
Part 300.343 (c)

### How often are IEP teams to meet?

IEPs are to be reviewed annually; however, a parent/guardian or teacher may request an IEP at any time.

Ed. Code §56043 (h), §56343 (c), §56343.5  
34 CFR Part 300.343 (c)



### If a student with disabilities has multiple general education teachers, which one is responsible for attending the IEP team meeting?

The IDEA Final Regulations which were issued March 12, 1999, clarify the role of the general education teacher in the IEP process.

- To the extent appropriate, the general education teacher participates in the development, review and revision of the IEP.
- If a student has more than one general education teacher, the LEA may designate which teacher (or teachers) will be on the IEP team.
- Depending upon the student's needs and purpose of the specific IEP team meeting, the general education teacher need not be required to participate in all decisions made as part of the meeting, be present throughout the entire meeting or attend every meeting.
- The extent to which it would be appropriate for the general education teacher member of the IEP team to participate in IEP meetings must be decided on a case-by-case basis.

Ed. Code §56341 (b) (2) 34 CFR  
Parts 300.340 - 300.350

### Does the general education teacher have access to the student's IEP?

Yes. Federal regulations specify that each general education teacher must have access to and be informed about the student's IEP. General education teachers





must be informed of their responsibilities to the student's IEP and of the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

Ed. Code §56347 34 CFR Part 300.342

### Can an IEP meeting be electronically recorded?

Yes. The parent/guardian, district or special education local plan area or county office shall have the right to electronically record the IEP meeting. Requests to audio record must be submitted 24 hours in advance. If the parent(s)/guardian(s) objects to the audio recording, the meeting shall not be recorded.

Ed. Code §56321.5 and §56341 (g)

### Does the teacher have to sign the IEP?

The Education Code is silent on this issue. If the teacher attended the IEP meeting, then it should be signed. If the teacher disagrees with the IEP, he/she should sign as a "dissenting member" of the IEP team and attach a written statement documenting the reasons for the dissent.

### What role do parents/guardians play in the IEP process?

The IDEA specifically states that "parents are members of the IEP team."

Parents/guardians also have the right to include other individuals on the IEP team who have knowledge or spe-



cial expertise regarding the student.

The IDEA specifically states that "parents/guardians are members enhancing the education of their student. Parents may provide information to the IEP team related to their student. The parents/guardians must be part of a group that makes an educational placement decision of their student."

Ed. Code §56341.5, §56343.5, §56380, §56341, §56346 34 CFR Parts 300.201, 300.249, 300.345, 300.501 (b), 300.502 (c)



Evaluation is a critical component of the special education process for students with disabilities. Students are evaluated initially to determine whether or not they have a disability and if they need special education and related services designed to address their unique special educational needs.

### What does the IDEA require when evaluating a student?

- Individualized testing.
- Evaluation in the native language or mode of communication.
- Nondiscriminatory evaluation.
- Standardized tests to be validated for the specific purpose for which they are used (e.g., Woodcock-Johnson, Peabody Individual Achievement Test Revised). Consult your special education teacher for the standardized test(s) used at your school site.
- Tests administered by trained and knowledgeable personnel.
- Tests administered in accordance with any instructions provided by the producer of such tests.

Ed. Code §56320 - 56329 34 CFR  
Parts 300.532 - 300.533

### How often must a student with a disability be reevaluated?

The IDEA requires reevaluation to occur every three years (triennials) to determine if he or she continues to have a disability and remains eligible for special education.

Ed. Code §56320 - 56329  
34 CFR Part 300.536



### What does the Least Restrictive Environment (LRE) mean?

The LRE is a fundamental principle of the IDEA. LRE is the environment where a student with disabilities can receive the appropriate education designed to meet his or her unique individual needs, while still being educated with non-disabled students. In California, LRE often refers to a continuum of services. The placement may be full-time in the general classroom, a pull-out program, partial placement in the general classroom (mainstreaming) or placement in a non-public setting.

It is significant to note that IDEA 1997 maintains that "To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled."

Ed. Code §56031 34 CFR Parts 300.550 - 300.554

### Who is responsible for determining the LRE?

The IEP team decides the LRE for the student with disabilities. The IEP team makes the LRE decision based on the unique needs of each individual with disabilities. One student's LRE may be different from another student's. When making a placement decision, the IEP team must consider the following:

- Placement in the general classroom first.
- Supplementary aids and services to ensure the implementation of the student's IEP.



- Placement, other than in the general classroom, if it is determined that the student's IEP needs cannot be met even with supplementary aids and services.

Ed. Code §56031 34 CFR Parts 300.130 and 300.550 - 300.556

### May a student with a disability be suspended?

Under normal circumstances, school personnel may temporarily (short-term, i.e., 24 hours) suspend a student with a disability using the same procedures in place for non-disabled students as long as the suspension does not mean a change of placement.

IDEA 1997 regulations provide that schools may suspend a student with disabilities for up to ten school days at a time for any violation of school rules as long as there is not a pattern of removals.

Ed. Code §48900 - 48926 34 CFR Parts 300.519 - 300.529

### May a student with a disability be assessed?

IDEA 1997 provides that students with disabilities are to be included in state and district-wide assessment programs, with appropriate accommodations and modifications.

34 CFR Parts 300.138 and 300.346



### Do students with disabilities participate in the STAR Program or the California Alternate Assessment?

All students enrolled in California public schools should receive instruction based on the California content standards. The degree to which the standards are used in writing IEP goals will vary based on the focus of the student's special education services. The Standardized Testing and Reporting Program (STAR) serves as a vehicle to determine how well students are learning skills and knowledge required by the California content standards. When a student is unable to take the STAR, even with accommodations or modifications, he or she should participate in the California Alternate Assessment. It is anticipated that those taking the California Alternate Assessment will comprise 1-2% of the general student population or 10-20% of the special education population.

[www.cde.ca.gov/spbranch/sed/family.htm](http://www.cde.ca.gov/spbranch/sed/family.htm)

### What are some appropriate accommodations or modifications that may be necessary for a student with disabilities to participate in state or district assessments?

The following is a partial list of appropriate accommodations or modifications depending upon the student's disability:

- Allowing more time for students to complete the test
- Administering the test in several sessions or over a number of days
- Dictating to a scribe
- Using a word processor
- Repeating directions



- Reading the test aloud
- Administering the test in a quiet room

The accommodation or modification is dependent upon the unique needs of the student and the test itself. The IEP should specify the type of accommodation or modification.

34 CFR Part 300.138 (a)

### What are supplementary aids and services?

The IDEA defines supplementary aids and services as "...aids, supports, and other services that are provided in the general education classes or other education-related settings to enable students with disabilities to be educated with non-disabled peers to the maximum extent appropriate . . ." In California, Designated Instruction and Services (DIS) is synonymous with "aids and services." These services may include, but are not limited to the following:

- Language and speech development and remediation
- Audiological service
- Orientation and mobility instruction
- Adapted physical education
- Physical and occupational therapy
- Vision services
- Specialized driving instruction
- Counseling and guidance
- Psychological services other than assessment and development of the IEP



- Parent counseling and training
- Health and nursing services
- Social worker services
- Specially designed vocational education and career development
- Recreation services
- Specialized services for low-incidence disabilities such as readers, transcribers, and vision and hearing services.
- Work study

Ed. Code §56361 - 56364 34 CFR Part 300.24

### What are Assistive Technology and Services? Does the IEP team need to consider them?

The 1997 Amendments to the IDEA require that the IEP team consider whether the student requires assistive technology and services. An assistive technology device means an off-the-shelf, modified, or customized-device that is used to increase, maintain, or improve the functional capabilities of a student with a disability. The term assistive technology service means any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device.

Ed. Code §56363.1 34 CFR Parts 300.5, 300.6, 300.346



### What kinds of assistive technology and services are to be considered by the IEP team?

The following are examples of assistive technology and services that may be incorporated into an IEP for a student with a disability:

Listening: assistive listening device, tape recorder

Writing: word processor, spell checker, proofreading, laser pointer

Reading: optical character recognition, books on disc, audio tapes

Organization/Memory: personal data managers, tape recorder, calendar programs, calculator, audio calculator

Activities for Daily Living: adaptive eating, drinking, dressing devices

Mobility: walker, manual wheelchair, powered wheel chair, head switch

Speaking: talking computer

34 CFR Parts 300.346, 300.5, 300.6, 300.8 (a)



### Commonly Used Acronyms in Special Education

<u>Acronym</u>	<u>Meaning</u>
ADA	Americans with Disabilities Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
AT	Assistive Technology
BIP	Behavioral Intervention Plan
DIS	Designated Instruction and Services
FAPE	Free and Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Instruction Program
IWEN	Individual with Exceptional Needs
LEA	Local Education Agency
LEP	Limited English Speaking
LRE	Least Restrictive Environment
OHI	Other Health Impaired
RSP	Resource Specialist
SED	Severely Emotionally Disturbed
SDC	Special Day Class
SST	Student Study Team



## Glossary of Special Education Terms

### Adapted Physical Education:

Adapted physical education is for individuals with exceptional needs who require developmental or corrective instruction and who are precluded from participation in the activities of the general physical education program, modified general physical education program, or in a specially designed physical education program in a special class.

### Advocate:

A person who speaks or acts knowledgeably on behalf of a student with special needs.

### Americans with Disabilities Act:

A federal anti-discrimination law giving individuals with disabilities civil rights similar to those given to all people on the basis of race, sex, national origin, or religion.

### Assistive Technology:

Any item, piece of equipment, product or system, that is used to increase, maintain or improve the functional capabilities of children with disabilities.

### Behavioral Intervention Plan:

A written document, which is developed when the individual exhibits a serious behavior problem that interferes with the implementation of the IEP goals and objectives. The "behavioral intervention plan" becomes a part of the IEP.

### Child Study Team or School Study Team:

A school-based committee, whose members determine if a student should be evaluated for special education eligibility.



### Consent:

Parental consent is required before a child can be evaluated or receive special education service under the IDEA.

### Child With a Disability:

A child who is evaluated in accordance with the IDEA as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deafness, blindness, or multiple disabilities, and, by reason thereof, needs special education and related services.

### Evaluation:

Before a child is placed in special education an individual assessment of the child's educational needs is conducted by a qualified person(s).

### Free and Appropriate Public Education:

FAPE as used in the federal law (IDEA), means special education and related services that are provided at public expense to children in preschool, elementary and secondary school that are in conformity with an individualized instruction plan (IEP).

### Individualized Education Plan:

An IEP is a written plan for each child with a disability, developed by the IEP team, that describes the student's present level of performance, annual goals, specific education and related services, dates for beginning and duration of services and how the IEP will be evaluated.



**Individuals with Disabilities Education Act:**

Federal legislation that mandates a free, appropriate public education for all children with disabilities.

**Individualized Education Program Team:**

A group of individuals that are responsible for developing, reviewing, and revising an IEP for a child with a disability.

**Least Restrictive Environment:**

Students with disabilities educational placement in a setting that allows maximum contact with students who do not have disabilities, while meeting the student's special education needs.

**Placement:**

Refers to the setting in which a student with disabilities is educated. A continuum of placement options shall include but are not necessarily limited to, all of the following or any combination of the following: regular education programs, resource program, designated instruction and services, special classes, non-public placement, state schools, instruction using telecommunications, instructions in the home, in hospitals or other institutions.

**Referral for Assessment/Evaluation:**

Any written request for assessment to identify an individual with exceptional needs made by a teacher, parent, or other service provider.

**Related Services:**

Those services that a special needs student must receive in order to benefit from special education. These services may include, but are not limited to: language and speech development and



remediation, audiological services, adapted physical education, vision services, specialized driver training instruction, counseling and guidance, psychological, health and nursing services, social worker, specialized vocational services, recreational, transportation.

**Special Education:** Specially designed instruction, at no cost to the parents, to meet the unique needs of students with disabilities, whose educational needs cannot be met with modification of the regular instruction program, and related services to assist these individuals to benefit from specially designed instruction.



INTERNET RESOURCES

Resources

California Teachers Association  
[www.cta.org](http://www.cta.org)

National Education Association  
[www.nea.org](http://www.nea.org)

California Department of Education  
[www.cde.ca.gov](http://www.cde.ca.gov)

IDEA Practices  
[www.idea.practices.org](http://www.idea.practices.org)

U.S. Department of Education, Office of Special  
Education Programs  
[www.ed.gov/offices/OSERS/OSEP](http://www.ed.gov/offices/OSERS/OSEP)

Council for Exceptional Children  
[www.cec.sped.org](http://www.cec.sped.org)

