

Educational Advocacy

Workbook Materials

<u>Content</u>	<u>Page</u>
<u>Learning Objectives</u>	<u>2</u>
<u>Key Terms</u>	<u>5</u>
<u>Education Rights Overview</u>	<u>6</u>
<u>The Individuals with Disabilities Education Act (IDEA)</u>	<u>8</u>
<u>Special Education: Assessment and IEP Timeline</u>	<u>11</u>
<u>IEP Process and Tips</u>	<u>12</u>
<u>School Discipline Overview</u>	<u>14</u>

Learning Objectives

Knowledge:

- K1. The participant will recognize the following laws and policies associated with educational stability and educational achievement for children, youth and non-minor dependents:
 - a. The basic educational rights of children and youth,
 - b. AB 490,
 - c. AB 114,
 - d. AB 12, and
 - e. IDEA.
- K2. The child welfare social worker will recognize his or her role as an advocate and case manager in supporting the educational achievement of children, youth and non-minor dependents in care.
- K3. The participant will be able to explain the terms “educational surrogate” and “individualized educational program” as they relate to child welfare practice.
- K4. The participant will be able to recognize key resources related to improved school readiness for young children who have experienced trauma, including:
 - a. Regional Center Early Intervention Assessment and Services,
 - b. Head Start and Early Head Start, and
 - c. Early and Periodic Screening Diagnosis and Treatment Supplemental Services.
- K5. The participant will be able to recognize key requirements at the high school level that impact high school graduation and access to higher education, including:
 - a. The California High School Exit Exam,
 - b. California high school graduation requirements, and
 - c. University of California, California State University and

community college entrance requirements.

- K6.** The participant will be able to recognize key resources available to assist current and former foster youth with post-secondary education, including:
- a. Foster Youth Services Liaisons,
 - b. Extended Opportunity Programs and Services (EOPS),
 - c. Educational Opportunity Program (EOP),
 - d. Foster Youth Success Initiative (FYSI) programs,
 - e. Priority registration for current and former foster youth,
 - f. Campus Support Programs (e.g., Guardian Scholars, Renaissance Scholars),
 - g. financial aid advisors,
 - h. academic counseling services,
 - i. the Free Application for Federal Student Aid (FAFSA),
 - j. Financial aid deadlines,
 - k. Disabled Programs and Services (DPS),
 - l. Vocational and career training, and
 - m. Chafee grants.

Values:

- V1.** The participant will value the facilitation of equal educational opportunities and the improvement of education outcomes for children, youth and non-minor dependents in the child welfare system.
- V2.** The participant will value his or her role in ensuring that the educational rights of foster youth as included in AB 490 are upheld in receiving their education.
- V3.** The participant will value collaboration with children, youth, non-minor dependents, families, family support networks and other professionals to access local resources and improve educational outcomes for children, youth and non-minor dependents.

- V4.** The participant will value working with youth to prepare for and access post-secondary education.
- V5.** The participant will value the role of early intervention in improving educational outcomes for children, youth and non-minor dependents.
- V6.** The participant will value the lifelong effect of educational achievement outcomes on the well-being of foster youth and non-minor dependents.

Key Terms

ECode = California Education Code

FAPE = Free, Appropriate, Public Education

IDEA = Individuals with Disabilities Education Act (20 USC 1400), EC56000

LRE = Least Restrictive Environment

IEP = Individualized Education Plan

SELPA= Special Education Local Plan

Education Rights Overview

FAPE: Children have the right to a “free, appropriate, public education”

If a student qualifies for special education (5 CCR 3030), the pupil is eligible for a free appropriate public education in the least restrictive environment. This means entitlement to services and accommodations. (20 USC 1412), annual review of the IEP (EC 563449(d) and reassessment every three years (EC 56381 (a) (2). If the student is only eligible for a 504 plan, the school must create a plan with accommodations and services. 34 CFR 104.3(j)

Practice Pointer: If the assessment says the student is **not** eligible and you disagree with the assessment, consider an Independent Educational Evaluation (IEE) EC 56329(b).

Resources (especially for infants and children, birth-5):

- EPSDT (1967): Early and Periodic Screening, Diagnosis and Treatment Services: mental health assessment, collateral contacts, therapy, rehabilitation, mental health services, medication support services, day rehabilitation, day treatment intensive, crisis intervention/stabilization and targeted case management (Note: In California, targeted case management is also included due to settlement in LA County class action, related to Katie A.)

Resources for homeless children

- School Stability and School Performance (McKinney Vento Act and AB 490)
- National Center for Homeless Education:
- SERVE Center (University of North Carolina at Greensboro) www.serve.org

IDEA (Part C):

Provides early intervention for infants and children under three years old who have a high risk for developmental delays.

Legislative Policy statement: “Over the past 30 years more and more concern has evolved about our schools and the connection between failure in school and crime and delinquency....

...Finally, child protective services accepted that the majority of the families that came to court had a significant level of dysfunction that likely included poor school attendance and performance... so we tried to make sure that kids went to and stayed in school.”

Practice Pointer: Between 3-5 years, early intervention services are provided by the school district where the child resides. EC 56001

The Individuals with Disabilities Education Act (IDEA)

The Individuals with Disabilities Education Act defines a child with a disability as follows:

- 1. In general: The term "child with a disability" means a child with one or more of the following:**
 - mental retardation (MR) or mild mental retardation (MiMR)
 - hearing impairments (including deafness)
 - speech or language impairments (SLI)
 - visual impairments (including blindness)
 - serious emotional disturbance (hereinafter referred to as "emotional disability or educational disability")
 - orthopedic impairments
 - autism
 - traumatic brain injury (TBI) other health impairments (OHI)
 - specific learning disabilities (SLD)

- 2. For children aged 3 through 9, the term "child with a disability" for a child aged 3 through 9 may, at the discretion of the State and the local education agency, include a child:**
 - Experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:
 - physical development
 - cognitive development
 - communication development
 - social or emotional development
 - adaptive development

Procedure: A Snapshot for your use and orientation of foster parents/relatives/educational rights holders

- ✓ The parents or service provider (e.g., teacher) at a child's school can request that a child be evaluated to determine if a disability exists. The

school must provide a proposed assessment plan within 15 days to the parent/education rights holder.

- ✓ The parents can challenge the review by the professionals and even request that the school system pay for a second, independent education evaluation. EC 56329(b).
- ✓ The educational rights holder/parent has 15 days to review the proposed plan and consent in writing to the assessment. Parental/education rights holder consent is required for the assessment to proceed. Within 60 days of the receipt of consent to the assessment, signed by parent/education rights holder, an individualized education program (IEP) shall be developed.
- ✓ The staff must contact all of the IEP team participants and select a time and place that works out for the parents and school administrators. Staff must also inform the parents about who will be attending the meeting and allow the parents to invite people they feel would be helpful to the planning.
- ✓ When possible, the IEP should also help guide the child toward involvement in the general curriculum of the school and extracurricular activities, and help the child interact with other children in the education setting.
- ✓ Parents should be given progress reports on how their child is doing. The reports should be made as often as needed or, at a minimum, whenever the regular education students receive their progress reports.
- ✓ At least once a year the IEP team re-assembles to assess how well the child is being served by the IEP. This review should include the child's progress or lack of progress toward reaching the annual goals. The parents and school staff may also have new information based on their observations of the child. At this time, team members can make recommendations on how to change the IEP to meet the child's developing needs, and revise services or education plans to better serve the child.
- ✓ At least once every three years, the child should be re-evaluated to determine if the child still meets the disability criteria. The child can be re-

evaluated more often if a teacher, parent, or circumstances warrant an updated evaluation.

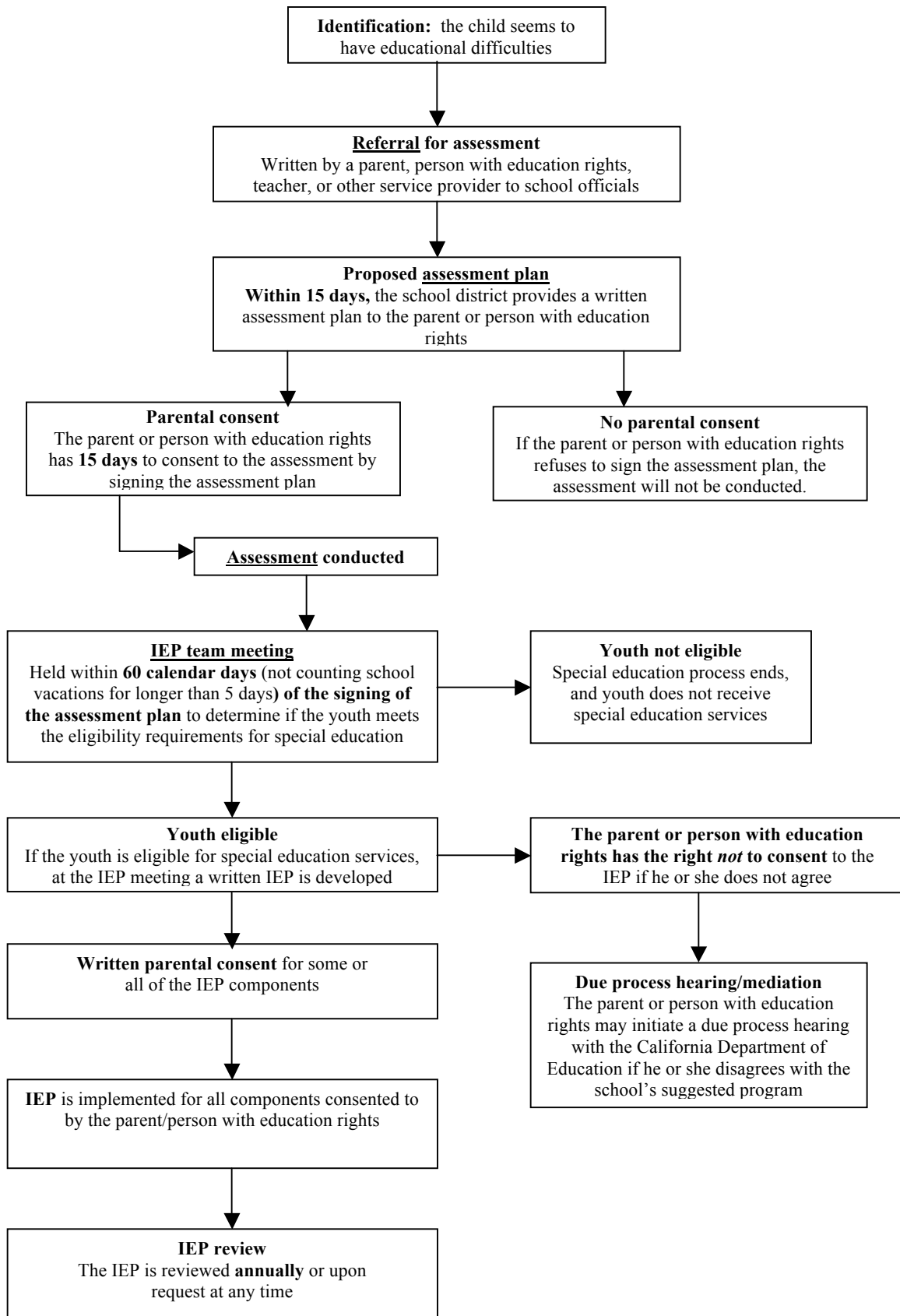
Federal law core protections, followed by Education Code (as applied to children in foster care):

1. The process is initiated by a written referral/request by the education rights holder or service provider (e.g., parent, teacher, attorney, social worker), to assess student for Special Education and 504 Plan. (EC 56029)
2. Entitlement extends from birth to age 22. (EC 56026).
3. School must generate and provide an assessment plan within 15 days to education rights holder. EC 56321(a). If the school refuses to assess, County Counsel should be contacted.
4. IEP must be prepared and the IEP meeting convened within 60 days of receipt of the written consent of the education rights holder. EC 56344(a)

Resources

- Request to appoint a surrogate parent
- Motion for Joinder can be made by any party or attorney for party (e.g., child's attorney)
- Collaboration with CASA volunteers
- Working with foster parents/caregivers
- Training and providing supports for foster parents/caregivers
- Support for parents – Parent Helping Parent organizations

Special Education: Assessment and IEP Timeline



IEP PROCESS IN A NUTSHELL

A TIP SHEET FOR EDUCATIONAL ADVOCATES

I. A sample IEP Assessment Meeting:

- Interlocutions – who is on the team?
- Purpose of meeting- why are we here?
- Review of parents procedural rights
- Review of reports and student's present level of performance
 - What are the student's strengths?
 - Parents report and what are the parents' greatest concerns?
 - Academic testing results
 - Speech/language, cognitive, social emotional, behavioral and any other necessary testing

II. Questions to be addressed:

- Is the student eligible for an IEP?
- What is the disability(s) identified?
 - How does the disability affect his/her participation in and progress with the general education curriculum and mainstream classroom?
 - A statement of **annual measurable goals** is drafted with a start date, progress report dates, and the duties of teachers and others specified.
- What **services** will be provided to meet the agreed upon goals?
 - Classroom accommodations
 - Assistive technology needed to access the general education curriculum

- Services/placement programs and related services needed to access the general education curriculum
- What is the **percentage of the student's non-participation in classes and activities with non-disabled peers?**
 - Rule: The student is entitled to the least restrictive environment: Student to participate to the maximum extent possible with non-disabled peers.

III. Plan formalities

- Plan is signed by all participating in the meeting.
- Any written dissent to the plan in whole or in part is attached.
- Parents/Education rights holder can consent to the IEP in part or as a whole and can withdraw consent at any time if they disagree with the implementation.

IV: Administrative remedies

- Parent files a written request for a hearing with the Off. Administrative Hearings (Special Education Division, Department of Education, Sacramento)
- Issues to be heard may include identification, assessment, IEP, placement and services
- "Resolution Sessions" between the parent and the LEAA representative are required prior to the state due process hearing
- Hearing is held within 30 days of filing a written request
- Hearing must be completed within 45 days of the request being filed but only upon consent of the person filing request (unless extended for good cause)

School Discipline Overview

Abstracted Education Code 8900 et. seq.

- Suspension:
 - The school must make a reasonable effort to notify the education rights holder by phone and must provide written notice of the suspension. EC 48911(d), (g).
 - A suspension lasting fewer than 20 days does not automatically create an expulsion recommendation. EC 48903(a)
 - If the student is referred for expulsion and suspension is extended because the student is deemed disruptive or a danger, the school must convene a meeting with the education rights holder. EC 48911(g). If it's a non EC 48915 offense, the minors' attorney and social services must be contacted. EC 48853.5(c)

Manifestation Determination

The school must contact the minor's lawyer and social services if the Manifestation Determination is for a Non-Education Code 48915 offense ("zero tolerance") EC 48853.5(c)

The Manifestation Determination requires two questions to be answered:

1. Was the behavior caused by, or did it have "a direct and substantial relationship" to the pupil's disability?
2. Was the behavior a direct result of the district's failure to implement the IEP?

If the answer is **yes to either question**, the student cannot be expelled and the school must develop a behavior plan (through conducting a behavior assessment) or revise the student's existing behavior plan. If the answer is **no to both questions**, the student may be disciplined like a nondisabled peer. 20 USC 1415(k)(1)(F); 34 CFR 300.530(e)(f)

Practice Pointer:

If the pupil has a disability (IEP or 504 plan), or the school has knowledge of a *suspected disability* (e.g., referred for an assessment) and the pupil has (1) either been referred for expulsion or (2) been suspended more than 10 consecutive days constituting a change in placement, the school must hold a manifestation determination within 10 days. 20 USC 1415 (k)(1)(E), (k)(5); 34 CFR 300.534(b)

Expulsion Hearing

- If the student is **not disabled or the answer was no to both manifestation determination questions**, the school may hold an expulsion hearing within 30 days of committing any EC 48900 act.
- Ten days prior to the hearing, written notice must be sent to the student (EC 48918(b), and if it's a non EC 48915 offense, the minor's attorney and social services must be contacted. EC 48918.1
- The student may request to postpone the hearing for up to 30 days. EC 48919.
- If expelled, the education rights holder has 30 days to appeal the governing board's decision. (EC 48919)