

INDIVIDUALIZED EDUCATION PROGRAM (IEP) – TEAM MEMBERS

Definition

The IDEA requires a district to ensure that certain persons attend a student’s IEP meetings and constitute the student’s “IEP team.”

Legal Requirements

Membership

Districts must ensure that the IEP team for any student with a disability includes the following members: (20 USC § 1414(d)(1); 34 CFR § 300.321; EC §§ 56341, 56341.2, 56341.5)

1. One or both of the student's parents/guardians and/or a representative selected by the parent/guardian. Definition of Parent – According to EC 56028, Parent means any of the following:
 - a. A biological or adoptive parent.
 - b. A foster parent if the biological or adoptive parent’s right to make educational decisions for their student has been limited by the court and the student is in a planned permanent living arrangement. A foster parent who has been excluded by the court from making educational decisions on behalf of a student may not act as the student’s parent. (EC 56055)
 - c. A guardian.
 - d. A grandparent, stepparent or other relative with whom the student lives or an individual who is legally responsible for the student's welfare.
 - e. A surrogate parent appointed by the district.
 - f. A person appointed by the court.
 - g. A parent does not include the state or any political subdivision of the government.
 - h. A parent does not include a NPS or NPA under contract with the district to provide special education service.
2. If the student is or may be participating in the general education program, at least one general education teacher of the student.
 - a. If more than one general education teacher is providing instructional services to the student, the district may designate one such teacher to represent the others. All other general education teachers should provide feedback to the IEP team. Additionally, any general education teacher whose class is being discussed should be present.
3. At least one special education teacher or, where appropriate, at least one special education provider for the student.
4. A representative or administrator of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
 - b. Knowledgeable about the general education curriculum.
 - c. Knowledgeable about the availability of district and/or SELPA resources.
5. An individual who can interpret the instructional implications of assessment results. This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student

shall be made by the party who invites the individual to be a member of the IEP team. (EC § 56341)

7. Whenever appropriate, the student with a disability.
8. For students suspected of having a specific learning disability in accordance with 34 CFR § 300.308 and 34 CFR § 300.310, at least one individual who is qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist, or remedial reading teacher. (EC § 56341) In accordance with 34 CFR § 300.310, at least one team member other than the student's general education teacher shall observe the student's academic performance and behaviors in areas of difficulty in the student's learning environment, including the general classroom setting. If the student is younger than five years old, or not enrolled in school, a team member shall observe the student in an environment appropriate for a student of that age. (EC § 56341)
9. For transition service participants:
 - a. The student, if the purpose of the meeting is the consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals pursuant to 34 CFR § 300.320(b).
 - b. If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.
 - c. To the extent appropriate and with the consent of the parent/guardian, or a student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.
10. For students who have been placed in a group home by the juvenile court, a representative of the group home. (EC § 56341.2)

Upon request of the parent/guardian of a student who was previously served under Early Education for Students with a disability (EC §§ 56425-56432) or the California Early Intervention Services Act (Government Code §§ 95000-95004), the district shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (20 USC § 1414(d)(1)(D); 34 CFR § 300.321; EC § 56341)

Dual Membership

A public agency representative may designate a public agency member of the IEP team to also serve as the agency representative, if the criteria in number 4 above are satisfied.

Excusal of Required IEP Team Members

A required member of the IEP team, described in numbers 2 through 5 above, shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing prior to the meeting, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (20 USC § 1414(d)(1)(C); 34 CFR § 300.321; EC § 56341) It is recommended that the district use best efforts to ensure that all mandatory team members can attend a student's IEP, rather than relying on the excusal process.

IEP Team Responsibilities

Districts shall ensure that IEP teams:

1. Review the IEP periodically, and at least annually, to determine whether the annual goals for a student are being achieved and the appropriateness of placement.
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.
 - b. The results of any reassessment conducted pursuant to EC § 56381.
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data.
 - d. The student's anticipated needs.
 - e. Other matters.
3. Consider the special factors when reviewing the IEP.

Confidential Student Input

As part of the participation of students with a disability in the development of the IEP, a student shall be allowed to provide confidential input to any representative of his/her IEP team.

Legal References

EC 56028; EC 56055; EC 56341; EC 56341.2; EC 56341.5; EC 56342, 34; CFR 300:321, GC 7572.5

Local Procedures

Members

The required membership for an IEP team varies depending on whether the meeting is an initial, annual review, triennial, transition, expanded IEP, whether the student has a specific learning disability, whether the student is bilingual, etc. It is the responsibility of the case carrier to be aware of the requirements listed above so they can identify the required members of the IEP team for each student on their caseload. Following are a few helpful reminders:

1. Required IEP members:
 - a. Parent.
 - b. General Education Teacher – although the law allows some flexibility with regard to this requirement, e.g., “if the student is or may be participating in the general education program,” there are few if any circumstances when possible participation in the general education program would not be discussed by the IEP team. In the case of a preschool aged student, a preschool teacher should be invited.
 - c. Special education teacher, service provider.
 - d. District administrative representative – the district administrative representative may designate another member of the IEP team to also serve as the district administrative representative, provided that person meets the criteria for the district administrative representative.
 - e. An individual who can interpret the instructional implications of assessment results. This individual may be the General Education teacher, the special education teacher/provider, the district representative, or an individual invited by the parent or district who has knowledge or special expertise regarding the student.
2. Permissive IEP members:

- a. At the discretion of the parent or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- b. Whenever appropriate, the student with a disability.

Note: When a student turns eighteen, the student should always be invited, unless the adult student has been conserved.

The list of permissive IEP members includes but is not limited to the following:

1. In the case of an initial IEP meeting regarding a student with specific learning disability, one person who is qualified to conduct individual diagnostic evaluations such as a school psychologist, speech and language pathologist or remedial reading teacher and one person other than the student's teacher who has observed the student's academic performance and behavior in the student's learning environment.
Note: There is nothing to prevent another IEP team member from meeting this requirement provided that they are qualified to conduct individual diagnostic examinations.
2. For students transitioning from Part C, infant programs, the Infant and Toddlers with Disabilities Coordinator.
3. For students in group homes, a representative from the group home.
4. For students receiving transition services a representative from the agency providing services.
5. A representative from a private school if the student is attending one.
6. Other persons as appropriate.

Note: Most students in foster homes are not in a 'planned permanent living arrangement' as described in the definition of parent. Hence, foster parents do not always meet the state's definition of parent for special education purposes. They may, however, be appointed as surrogate parents if the district so desires. For more information on how to appoint a surrogate parent, see the section titled Surrogate Parents.

Three of the requirements listed above deserve added emphasis:

1. Student's with transition services – prior to inviting a representative from an agency that may be providing or paying for transition services, make sure to obtain permission from the parent or adult student.
2. Students living in group homes – be sure to invite a representative from the group home.
3. Students transitioning from infant to preschool – invite the coordinator or another representative from the Infant Program.

Excusing a Required Member of the IEP Team

Districts may excuse a required member of the IEP team from attending all or part of an IEP team meeting if the parent gives permission prior to the meeting. Notice that the operative word here is 'required' member of the IEP team. According to California law, 'required' members are defined as the following:

1. The general education teacher.
2. The special education teacher or service provider.
3. The administrator/designee.
4. A person who can interpret the instructional implications of assessment results.

Districts are not required to pursue excusals for other IEP team members who may not be able to attend an IEP meeting.

Districts should remember that if a mandatory team member will be absent for even a portion of the IEP meeting, an appropriate excusal process should be followed, including providing written input in advance and getting an excusal form signed. Typically, mandatory team members should stay for the entire meeting unless they have provided written input to the parents and the IEP team prior to the meeting.

Districts should be cautious in how they implement this provision. Only persons with the proper authority should be allowed to excuse IEP team members from attending meetings. The responsible administrator in each district should be the only person who can approve the excusal of a mandatory team member from an IEP meeting. This person should be knowledgeable about special education procedures and requirements. Members should only be excused when it is necessary and districts should be cautious to avoid excusals that can be interpreted to constitute a pattern.

The following procedures should be followed when excusing persons from attending an IEP meeting:

1. As soon as a required member of the IEP becomes aware that he/she will not be able to attend a meeting, that person must notify the case carrier and the responsible administrator.
2. The administrator decides whether to substitute another qualified IEP team member, pursue an excusal, or reschedule the IEP meeting.
3. If a substitute is not available, the case carrier contacts the parent to explain the problem. If the parent agrees to excuse that person from the IEP meeting, the case carrier should immediately complete the IEP Team Member Excusal Form and obtain parent signature.
4. If the excused member's area of curriculum or related service is to be discussed at the meeting, the administrator will direct that person to submit written input to the parent and the IEP team prior to the meeting that the IEP team can use to develop the IEP. Parental consent to excusal should not be obtained until the parent has had a chance to review the team member's written input.
5. The person to be excused must submit their written input to the parent and case carrier sufficiently ahead of the IEP meeting to allow for review and clarification as necessary.

Note: Written input should include the following:

1. *Brief statement of the issues and recommendations.*
2. *Recommendations for services including frequency, intensity and duration as appropriate.*
3. *Recommendations for goals and objectives as appropriate.*

IEP Team Responsibilities

1. The IEP team must review the IEP for every student as needed, at least annually, to determine whether the student is making adequate progress towards the goals and objectives in the IEP and whether the placement is appropriate.
2. The IEP team must revise a student's IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.
 - b. The results of any reassessment conducted pursuant to EC § 56381.
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data.
 - d. The student's anticipated needs.

- e. Other matters.
3. The IEP team must consider special factors whenever developing or reviewing an IEP.
4. If, following an IEP meeting, a general or special education teacher has concerns about a student's IEP, the teacher should contact the case carrier or responsible administrator to express his/her concerns. The case carrier and/or responsible administrator will review the file and schedule an IEP meeting if necessary.

Confidential Student Input

Students have a right to consult with any member of the IEP team during the school day regarding matters that affect the development of the student's IEP. The case carrier should inform students of this right and IEP team members should make themselves available whenever a student makes such a request. The only guidance from the statute regarding the information/input from the students is that it must be kept confidential.

Local Forms

Note: This form needs to be submitted to the parent and IEP team prior to the meeting.

The Humboldt - Del Norte SELPA "IEP Team Member Excusal" form must be used to document the excusal of IEP team members. In completing the form, the school site designee must indicate whether the person's area of curriculum or related service is a subject for discussion at the IEP meeting. If it is, that person must submit written input to the development of the IEP to the parent and IEP team prior to the meeting. This form is found in the SEIS document library.

FAQs

Does the general education teacher have to attend the meeting if the student is not going to be mainstreamed at all?

Even if the student currently is not participating in general education, there are few to no circumstances when the IEP team can determine prior to the meeting that it is not necessary to discuss the student's possible participation in general education. To do otherwise could constitute predetermination of placement. It is always recommended for the general education teacher to attend as a required member.

Can we complete the IEP Team Member Excusal Form at the IEP meeting?

Parents must be informed prior to the meeting that the team is seeking an excusal for a member. The form should be filled out prior to the meeting to ensure that the parent is aware and agrees to or consents to the excusal. Additionally, if the team member's area of curriculum or services is being discussed, the team member must provide written input to the parents and the IEP team prior to the IEP meeting. If the parent does not agree or consent, it affords the district time to reschedule the meeting so they can be compliant with timelines.

What happens if the parent will not agree to excuse a required IEP team member?

The responsible administrator will either have to re-schedule the IEP meeting or appoint a qualified substitute to replace the member who cannot attend the meeting.

Does a parent have the right to demand who attends an IEP meeting?

The law is clear that parents have the right to include persons who they feel have knowledge or special expertise about their student. However, if a person that the parent wants to include is an

employee of the district and the IEP is during the contract workday, the district can decide whether that person will be able to attend the meeting. The district is only obligated to make mandatory team members available for the meeting.

Are there definite times when the student must be invited?

Yes, once a student reaches the age of 18 they must be invited to all IEP meetings, unless the student lacks the cognitive ability to adequately represent him/herself and the courts have appointed someone to act as conservator on their behalf. Beginning when the student is 16 years old, or younger if appropriate, the student should also be invited to any IEP meeting where postsecondary goals and transition services are to be discussed.

Our school has a difficult time getting general education teachers to attend IEP meetings. Can we just excuse them?

No, the general education teacher is a required member of the IEP team. Additionally, they are required to stay for the entire meeting.

Who is considered “qualified” to provide, or supervise the provision of, specially designed instruction?

The term “qualified” is defined in § 3001(y) of Title 5 of the California Code of Regulations as meaning that “a person has met federal and state certification, licensing, registration, or other comparable requirements . . .” A person qualified to provide specially designed instruction to meet the unique needs of students with a disability would need to be an individual who possesses certification, license or registration in the field of special education such as a speech language pathologist, school psychologist, special education teacher, occupational therapist and physical therapist. A person qualified to supervise the provision of specially designed instruction to meet the needs of students with a disability to be an individual who possesses certification as an administrator.

Note: In addition to being qualified, the district representative must be knowledgeable about the general education curriculum and special education resources.

Does the “qualified” individual need to be an administrator, special education teacher or provider at the time of the IEP meeting?

No, the “qualified” individual could be serving in a different role as long as he/she possessed the necessary certification, license, or registration as an administrator, special education teacher or provider. A provider would include an individual who is qualified to provide special education or related services such as a special education teacher, speech language pathologist, school psychologist, occupational therapist and physical therapist. Likewise, a general education teacher could be considered qualified to provide specially designed instruction if he/she also possessed a special education teaching credential.

REMINDERS

- There is no simple formula for determining who should attend an IEP meeting. IEP teams must be determined on a case-by-case basis.
- Required IEP team members may be excused from attending a meeting if the district and parent agree in writing prior to the meeting, however it is not recommended.
- Agencies that provide transition services may be invited to IEP meetings but only with parent/adult student consent.
- Only authorized persons should be allowed to determine when members may be excused from IEP meetings.
- If a member is excused from attending an IEP meeting he/she may have to provide written input to the parent and IEP team.
- It is a rare occasion when a general education teacher is not a required member of the IEP team.