

# INDIVIDUALIZED EDUCATION PROGRAM (IEP) - TEAM MEETINGS

## **Definition**

A meeting to develop, review, or revise the IEP of a student with a disability.

## **Legal Requirements**

### Meeting Requirements

An IEP team shall meet whenever any of the following occurs:

1. A student has received an initial formal assessment for special education. The team should meet when a student receives any subsequent formal assessment.
2. The student demonstrates a lack of anticipated progress.
3. The parent or teacher requests a meeting to develop, review, or revise the IEP.
4. At least annually, to review the student's progress, the IEP, including whether the annual goals for the student are being achieved and the appropriateness of placement, and to make any necessary revisions. The IEP team conducting the annual review shall consist of those persons specified in subdivision (b) of § 56341. For more information, see “IEP Team Members” section of this manual. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

A meeting of an IEP team requested by a parent to review an IEP pursuant to subdivision (c) of § 56343 shall be held within 30 calendar days, not counting days between the student's general school sessions, terms or days of school vacation in excess of five school days, from the date of receipt of the parent's written request. If a parent makes an oral request, the district shall notify the parent of the need for a written request and the procedure for filing a written request.

It is the intent of the Legislature that the IEP team meetings be non-adversarial and convened solely for the purpose of making educational decisions for the good of the student with a disability.

The IEP meeting shall be scheduled at a mutually agreed-upon time and place.

To the extent possible, the district shall encourage the consolidation of reassessment meetings for the student with a disability and other IEP team meetings for the student.

### Team Determinations

The IEP team shall review assessment results, determine eligibility, determine the content of the IEP, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of § 56195.8 (for more information, see “Transportation Agreements” section of this manual), and make program placement recommendations.

In determining the program placement of a student with a disability, a district shall ensure that the placement decisions and the student's placement are made in accordance with §§ 300.114 to 300.118, inclusive, of Title 34 of the Code of Federal Regulations.

The IEP team shall review the student's IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and revise the IEP, as appropriate, to address, among other matters, the following:

1. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.
2. The results of any reassessment conducted pursuant to § 56381.
3. Information about the student provided to, or by, the parents or guardians as described in subdivision (b) of § 56381.
4. The student's anticipated needs.
5. Any other relevant matter.

### Explanation of Rights

At each IEP meeting, the district responsible for convening the meeting shall inform the parent and student of the federal and state Procedural Safeguards that were provided in the notice of Procedural Safeguards pursuant to § 56321.

### Team Considerations

1. When developing each student's IEP, the IEP team shall consider the following:
  - a. The strengths of the student.
  - b. The concerns of the parents or guardians for enhancing the education of the student.
  - c. The results of the initial assessment or most recent assessment of the student.
  - d. The academic, developmental, and functional needs of the student.
2. The IEP team shall do the following:
  - a. In the case of a student whose behavior impedes his or her learning or that of others, consider the use of behavioral interventions and supports and other strategies, to address that behavior.
  - b. In the case of a student with limited-English proficiency, consider the language needs of the student as those needs relate to the student's IEP.
  - c. In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille, unless the IEP team determines, after an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the student's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the student.
  - d. Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode.
  - e. Consider whether the student requires assistive technology devices and services as defined in § 1401(1) and (2) of Title 20 of the United States Code.
3. If, in considering the special factors described in subdivisions (a) and (b), the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education (FAPE), the IEP team shall include a statement to that effect in the student's IEP.

### Nonpublic School (NPS)/Residential Placements

An elementary school district shall notify a high school district of all students placed in NPS or agency programs prior to the annual review of the IEP for each student who may transfer to the high school district.

When an IEP calls for a residential placement, it is recommended that the IEP shall include a provision for a review, at least every three months, by the full IEP team of all of the following:

1. The case progress.
2. The continuing need for out-of-home placement.
3. The extent of compliance with the IEP.
4. Progress toward alleviating the need for out-of-home care.

### General Education Teacher Participation

A general education teacher of the student, who is a member of the IEP team, shall participate in the review and revision of the IEP of the student consistent with § 1414(d)(1)(C) of Title 20 of the United States Code.

A general education teacher of a student with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development of the IEP of the student including the determination of:

1. Appropriate behavioral interventions and supports and other strategies for the student; and
2. Supplementary aids and services, program modification, and support for school personnel consistent with 34 CFR 300.320.

### Parent Participation

A district shall ensure that the parent of each student with a disability is a member of any group that makes decisions (the parent has input on more than the educational placement) on behalf of the student. Each district convening a meeting of the IEP team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each IEP meeting or are afforded the opportunity to participate.

Pursuant to § 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the district shall use other methods to ensure parent or guardian participation including individual or conference telephone calls and, consistent with § 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the district may agree to use alternative means of meeting participation such as video conferences and conference calls.

The parent or guardian shall have the right to present information as part of the IEP team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations and program planning.

The district shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

The district shall give the parent or guardian a copy of the IEP in his or her native language, at no cost to the parent or guardian.

### Recording IEP Meetings

1. Notwithstanding § 632 of the Penal Code, the parent/guardian or district shall have the right to record electronically the proceedings of IEP team meetings on an audiotape recorder. The parent or guardian or district shall notify the members of the IEP team of their intent to record a meeting at least 24 hours prior to the meeting. If the district initiates the notice of intent to audiotape record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder.
2. The Legislature hereby finds as follows:
  - a. Under federal law, audiotape recordings made by a district are subject to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and are subject to the confidentiality requirements of the regulations under §§ 300.610 to 300.626, inclusive, of Part 34 of the Code of Federal Regulations.
  - b. Parents or guardians have the right, pursuant to §§ 99.10 to 99.22 inclusive of Title 34 of the Code of Federal Regulations, to do all of the following:
    - i. Inspect and review the tape recordings.
    - ii. Request that the tape recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of student with a disability.
    - iii. Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading or in violation of the individual's rights of privacy or other rights.

### Meetings without Parents in Attendance

A meeting may be conducted without a parent or guardian in attendance if the district is unable to convince the parent or guardian that he or she should attend. In this event, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls.
2. Copies of correspondence sent to the parents or guardians and any responses received.
3. Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

It is recommended that a district try to convene at least three IEP meetings with parent prior to proceeding with having an IEP meeting without parents present. Remember that you can always allow a parent to participate in a meeting via telephone. When the IEP team has convened, it is best practice to call the parent and determine if he/she can participate via phone.

### Types of meetings that do not require formal IEP meetings

An IEP meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. An IEP meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

### Modifying the IEP without Holding an IEP Meeting (Amendments)

In making changes to a student's IEP after the annual IEP meeting for a school year, the parent of the student with a disability and the district may agree not to convene an IEP meeting for the purposes of making those changes and instead may develop a written document, signed by the parent and by a

representative of the district, to amend or modify the student's existing IEP. This type of IEP change is referred to as an "IEP Amendment."

Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or as provided above, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the student's complete operative IEP with the amendments incorporated.

If changes are made to the student's IEP, the district shall ensure that the student's IEP team is informed of those changes.

### Timelines

An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 calendar days (45 calendar days from referral for Early Start), not counting days between the student's general school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an IEP required as a result of an assessment of a student shall be developed within 30 calendar days after the commencement of the subsequent general school year as determined by each district's school calendar for each student for whom a referral has been made 30 calendar days or less prior to the end of the general school year. In the case of student school vacations, the 60-day time shall recommence on the date that student school days reconvene.

## **Legal References**

EC 56043; EC 56304; EC 56341.1; EC 56341.5; EC 56342; EC 56342.5; EC 56343; EC 56344; EC 56380.1; EC 56381; EC 56500.1, Title 5 CCR 3069, Title 2 GC 60100, 34 CFR 300:323; 300:324; 300:328; 300:501

## **Timelines**

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If the parent requests an IEP meeting, it must be held within 30 calendar days, not counting days between the student's general school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written request. The request must be in writing.

## **Local Procedures**

### General Requirements

There are a few important basics to keep in mind about IEP meetings, namely:

1. Scheduling is important. The meeting must be scheduled at a mutually agreed-upon time and place. Mutually agreed upon means agreeable to both the parent and the district.

2. Meetings should be non-adversarial and convened solely for the purpose of making educational decisions for the good of the student with a disability. While meetings can become adversarial at times, it is important to remember to keep the focus on the student's needs.
3. IEP meetings can be very time consuming for both districts and parents. Districts are encouraged to consolidate meetings whenever possible. For example, if a triennial evaluation is due, try to combine it with the annual review. If a student is transitioning to the high school, have the transition meeting coincide with the annual review.

### Requirements for Holding IEP Meetings

IEP meetings must be held at the following times:

1. Initial Evaluation – An IEP meeting must be held upon the completion of an initial evaluation and within 60 calendar days of receiving the signed assessment plan (45 calendar days from referral for Early Start).
2. Annual Reviews – The IEP must be reviewed at least annually.
3. Parent Request – Parents may request that the district hold an IEP meeting for their student. The request must be in writing. If the parent makes a verbal request, the person receiving the request must explain to them that the request must be in writing. The district must then hold the IEP meeting within 30 calendar days from receipt of the written request, with the typical exceptions for vacations and breaks exceeding five school days. The law places no limits on how many times a parent can request an IEP meeting.
4. Teacher Request – The district must hold an IEP whenever the 'student's teacher' requests one. Unfortunately, code does not define 'student's teacher,' nor does it give a timeline for holding this IEP meeting. The SELPA therefore defines the 'student's teacher' as any of the following:
  - a. The classroom teacher the student is assigned to. If the student is assigned to a special day class and is mainstreamed into a general education classroom, the general education teacher is also considered the student's teacher.
  - b. Any special education service provider designated on the student's IEP, i.e., SAI, speech, VI, etc.
  - c. It is recommended this meeting be held within 30 calendar days of the teacher's request.
5. Reevaluations/Triennial Review – According to law, the district is only required to hold an IEP meeting after an evaluation subsequent to the initial evaluation, including a triennial evaluation, if the results of the evaluation require a change in the IEP. Because this language is confusing, the SELPA strongly recommends that districts always hold an IEP meeting to review the results of a reevaluation within 60 calendar days of the date the parents signed the assessment plan.

### Role and Function of the IEP Team

In the simplest of terms, the IEP team's primary role is limited to the following:

1. Review the assessment results (when provided).
2. Determine eligibility.
3. Determine the content of the IEP.
4. Consider local transportation policies and criteria.
5. Make program placement recommendations. (The district has the final authority for and responsibility of actually determining placement.)

### Reviewing Assessment Results

When an IEP meeting is being held as the result of an initial evaluation or reevaluation, the team will review the results of the evaluation. This should be kept simple and focus on information that pertains

directly to the development of the IEP. It is recommended that teams discuss the assessment results in parent-friendly language and focus on pertinent information such as:

1. Does the student meet the criteria for a disability?
2. Are there any factors that would automatically disqualify a student from eligibility?
3. What are the student's primary areas of need?
4. What are the student's current levels of performance?
5. What are the recommendations for goals and objectives and the baseline data for each?

### Determining Eligibility

Determining eligibility is the responsibility of the IEP team. If the team is not familiar with the eligibility requirements, the IEP administrator, case carrier, and/or relevant assessors should review the assessment results related to the criteria and answer questions as necessary. The team should then make the final determination as a group.

When determining eligibility, the IEP team must first decide whether the student meets the criteria for a disability(s). If the student clearly meets the eligibility criteria, the IEP team must verify that the disability is NOT due to any of the following factors:

1. The effects of environmental, cultural or economic disadvantage.
2. Lack of appropriate instruction in reading, including the essential components of reading instruction.
3. Lack of appropriate instruction in math.
4. Limited English proficiency.

If the student meets the criteria for a disability and all of the previous factors are ruled out, the last step is to decide whether the student requires instruction and services that cannot be provided without modification of the general school program.

### Determining the Content of the IEP

Directions for completing the IEP form can be found in the Refer to State SELPA Forms Manual Writing IEPs for Education Benefit in the SEIS Document Library. In the case of an initial evaluation, most of the information will come from the evaluation. In the case of an annual review, most of the information should be based on the student's progress on the prior IEP's goals and current functioning in the classroom. In fact, the meeting should begin with a report of the student's progress on the prior IEP goals.

When developing the new IEP the IEP team must consider all of the following:

1. The strengths of the student – these may come from the assessment, the prior IEP, and input from the parents and the student's teacher/s. This information should be related to educational functioning.
2. Concerns of the parents – these should be recorded on the Present Levels of Academic Achievement page.
3. The results of any assessments – in addition to strengths, this will include areas of need and current levels of performance in each area of assessment.
4. Special Factors:
  - a. Assistive Technology – If a student requires some form of assistive technology device, it should be noted here. Assistive technology can be low tech such as a specialized mouse or high tech such as a computerized communication device. In no case should the IEP specify a particular device, i.e., brand, model, etc. It should specify the function that the

- device serves, i.e., a portable device that enables the student to speak to others. The rationale section for assistive technology should be filled out for all students.
- b. Blind or Visually Impaired – This refers to a student who meets the eligibility criteria for one of these disabilities, not a student who just wears glasses or has visual perceptual problems. Does the student require instruction in Braille or the use of materials in Braille? This must be decided based on an evaluation by a qualified VI teacher.
  - c. Deaf or Hard of Hearing –If the student’s primary mode of communication is sign language, this section should be completed with input from a teacher of the Hearing Impaired to address opportunities for the student to communicate with peers and adults and providing direct instruction in sign language if appropriate.
  - d. English Learner – Is the student an English Learner? If so, the team must consider the language needs of the student, such as whether the student needs linguistically appropriate goals and objectives or special instruction. This section should not be completed if the student is not an English Learner.
  - e. Behavior – Does the student’s behavior impede his/her learning or that of others? If so, the team must consider the use of behavior interventions and supports and other strategies, i.e., goals and objectives, classroom accommodations, incentives, etc., to address that behavior. At least one IEP goal should be written for any student whose behavior impedes the learning of himself/herself and/or others. This question should be asked and considered at every IEP meeting for every student.

*Note: If the IEP team determines that a student requires a particular device, service, intervention, accommodation or modification for any of the above special factors, it should be stated in the IEP.*

#### Explanation of Procedural Safeguards

At each IEP team meeting, the team must inform the parents, or adult student, about their Procedural Safeguards. The Procedural Safeguards inform the parent and student of the federal and state rights that safeguard the IEP process for students and families. At least annually, the Procedural Safeguards must be given to the parents or adult student. Best practice is to offer the Procedural Safeguards at each IEP meeting. Additionally, the SELPA recommends the district explain the document in general terms and ask if the parents have any questions at that time.

The district should also offer to meet with the parents at another time and go over the Procedural Safeguards in greater detail if they so desire.

#### Residential Placement Requirements

In the case of a student placed in a residential placement, the IEP team should hold an IEP to review the student’s progress every three months, minimum. Please see the SELPA’s Residential Treatment Center Guidelines for more information. APPENDIX I

#### Transition to High School

For elementary school districts who have students transitioning to the high school district, a high school representative must be invited to the annual review prior to the student transitioning to the high school. If a high school representative does not attend the meeting, the elementary school district shall develop the IEP and notify the high school district of the results of the IEP meeting in writing immediately following the IEP meeting.



### General Education Teacher Participation

The general education teacher participates in the IEP meeting the same as any other IEP team member but he/she also plays a specific role in relation to two particular issues. One, for student's whose behavior impedes their learning or the learning of others, the general education teacher should assist the IEP team in the development of behavioral interventions and supports. This may be as minor as identifying simple classroom interventions to be noted in the IEP or as involved as developing a Behavior Intervention Plan (BIP) for the student. Two, the general education teacher should also assist the IEP team in determining supplementary aides and services and/or program accommodations and/or modifications that will enable the student to be successful in the general education program. They may also help determine when and how support should be provided to school personnel in order for them to better understand and provide assistance for a student.

*Note: For specific ideas for holding IEP meetings, including sample agendas, see the section on Tips for IEP Meetings.*

### **FAQs**

What does it mean to provide a student with a "FAPE"?

*A free appropriate public education, or "FAPE," consists of both procedural and substantive components. The procedural components are discussed extensively in this manual. The Supreme Court, in *Endrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (2017), provided the substantive standard for FAPE: "To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances."*

How do you keep an IEP meeting from being non-adversarial?

*If you know that the meeting is going to be contentious, it is a good idea to arrange to have a facilitator at the meeting. It is best if you can find someone who has been specifically trained as a facilitator for IEP meetings. Please contact SELPA for resources.*

What should we do if any IEP team members are unsure of the law around eligibility?

*The IEP administrator and/or case carrier needs to consider this prior to the meeting, and if necessary meet with staff to discuss eligibility criteria beforehand. If that is not possible, the administrator and/or case carrier will have to either postpone the meeting or explain the criteria at the meeting and walk staff through each step of eligibility determination. It is recommended that the administrator and/or case carrier do both because if staff do not understand the eligibility criteria, it is unlikely that parents will.*

How long should an assessor spend sharing his or her assessment report?

*The IEP administrator and/or case carrier should establish clear ground rules in this regard and act as time keeper during the meeting. Staff should also be trained in how to make oral reports during meetings and be given time to practice. The administrator and/or case carrier should state at the beginning of the meeting that parents can always make appointments with individual assessors to gain more insight or detailed information about the assessment results. It can be helpful to put time limits on presentation of assessment results.*

How often does the IEP have to be reviewed for a student who is in a NPS but not in an educationally funded residential placement?

*Legally, you are only required to meet annually. However, it is advisable to meet every six months for students in an NPS setting. This enables the district to keep informed on whether the student is making progress on his/her IEP goals.*

Can special education teachers meet with parents and amend an IEP without a meeting?

*Legally they can, but it is best practice to have an administrator/designee and general education teacher at addendum meetings. Because special education teachers may not be aware of all of the rules and regulations governing special education, what may seem like a minor amendment to them may result in significant negative consequences for a district. Additionally, the team will need to determine how the change will affect the student in his/her general education classroom. That is why it is important for each district to decide who and how amendments will be handled.*

Is there a limit to the number of IEP meetings a parent can request?

*No, the number of meetings is limited by the fact that the district has 30 calendar days from the date of receipt of written request to actually hold the meeting, so several requests in a 30-day period could be combined into a single meeting.*

#### **REMINDERS**

- The IEP must be reviewed annually - that means within one calendar year of the date of the last IEP or annual review.
- IEP meetings must be scheduled at a mutually agreeable time.
- The procedural safeguards must be reviewed for the parents or adult student in the IEP meeting.
- Eligibility has three elements – the existence of a disability, a rule out of certain factors for some disabilities and the determination of need for instruction and/or services that create a modification of the general school program.
- The report of assessment findings should be succinct and focus on information that relates to the development of the IEP.
- The IEP team recommends placement – the district administrator determines placement.
- There is no limit on the number of IEP meetings a parent can request per year.
- The IEP team must meet if the student's teacher requests a meeting.
- The IEP for a student in a residential placement must be reviewed every three months.
- Both the parents and the district are required to give 24 hours' notice in order to tape record an IEP meeting.
- The district cannot tape record a meeting if the parent objects and refuses to participate.
- The district can hold an IEP meeting without a parent in attendance in limited circumstances.
- Staff can meet and discuss a student without holding an IEP meeting, but changes to the IEP require an IEP meeting.
- The parents and district can agree to amend an IEP without holding a meeting.
- Special education teachers and parents can, and should, have conferences without holding an IEP meeting.