

Foster Care Education Fact Sheets

Alameda County Foster Youth Alliance

American Bar Association,
Center on Children and the Law

California Administrative Office of the Courts,
Center for Families, Children and the Courts

California CASA Association

California Department of Education

California School Boards Association

California State Ombudsman for Foster Care

California State University, San Marcos

California Youth Connection

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Children's Law Center of Los Angeles

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Honoring Emancipated Youth

Mental Health Advocacy Services, Inc.

National Center for Youth Law

Protection & Advocacy, Inc.

Sacramento City Unified School District

San Diego County Department of the Public
Defender, Dependence Section

Youth Law Center

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produced courtesy of Casey Family Programs

The following information pertains to children between the ages of 3 – 21 who are eligible for special education services. The procedures are slightly different for children between the ages of 0 – 3 who are eligible for *E*

what is special education?

Special education is a system of services and supports designed to meet the specific learning needs of a child with disability.

who receives it?

myth: All special education students attend a special education class or special school with other disabled students.

reality: Special education services can be provided in an array of individualized educational placements appropriate to the individual student. Not all are extremely restrictive. Where appropriate, they can be provided in the mainstream classroom with additional supports.

what is provided under federal and cal ifornia law?

fape: *A* , *E*
Refers to the provision of highly individualized special education and related services provided at public expense.

20 usc §1401 (d)(1)(a), 1402(9); 34 cfr §300.4

related services: Any services necessary to help student benefit from special education program, e.g. transportation, psychological services, physical, speech and occupational therapy, etc.

20 usc §1402(26), 34 cfr §300.24(a).iii

l re: fape must be provided in the *E* Children with disabilities are to receive education to the maximum extent appropriate with nondisabled peers and are not to be removed from regular classes unless even with supplemental aids and services, education in regular classes cannot be achieved satisfactorily. 20 usc 1412(1)(5)(a).v

Laws Governing Special Education

federal law

idea: The Individuals with Disabilities Education Act, found at 20 usc §§ 1400 and the following sections, ensure that all children with disabilities have access to a free appropriate public education (fape) that emphasizes special education and related services designed to meet unique needs.

child find: School districts/sel pas have a duty to actively and systematically seek out individuals with exceptional needs who may be entitled to special education services. ec 56300

idea's corresponding federal regulations are found at 34 cfr Part 300.

section 504: Sec. 504 of the Rehabilitation Act of 1973 is found at 29 usc §794, 34 cfr §104.1 and the following sections.

Section 504 covers a broader group of students than idea. All children that qualify under idea also qualify for protections under 504, but there are some students who qualify for 504. Usually students with 504 plans are those who do not qualify under idea.

eligibility for 504: Section 504 provides services to students who have a physical or mental impairment that substantially impairs a major life activity (such as learning). 34 cfr §104.3(j)
Some examples of disabilities that may warrant a 504 plan are asthma, allergies, diabetes, add, or adhd.

similarities and differences between 504 and idea: Both require districts to provide disabled students with fape.

idea requires districts to develop an Individualized Education Program (iep).

While Section 504 requires a plan, it is not called an iep, and different districts process these plans differently.

California Law parallels idea: Found at Cal. Ed. Code §§ 56000 and following; State Regulations: ccr §§3000 and the following sections. Each district will have its own Section 504 policy.

eligibility for special education services under idea

- Child has an impairment adversely affecting his educational performance that requires special education.
- Impairment fits into one of the following qualifying categories of disabilities: Mental retardation; hearing impairment; speech or language impairment; visual impairment; emotional disturbance; hearing and visual impairment; severe orthopedic impairment; autism; traumatic brain injury; other health impairment; specific learning disability; multiple disabilities.

20 usc §1402(3), 34 cfr §300.7, ec 56026

age: Students may be eligible for special education services between the ages of 0 – 21.

early intervention services: children between the ages 0 – 3; provided through the regional center.

preschool services: children between ages 3 – 5; provided through the school district.

special education services: children between the ages of 5-21; provided through school district.

timelines and procedures

sst (Student Study Team). An sst is a function of regular education, not special education, and is governed by school

district policy, not federal or state law. It is not mandatory to have an sst prior to an iep or referral for special education assessment. Students struggling in school may be referred to an sst. ssts can be the “first step” towards determining whether a student needs special education services.

iep (Individualized Education Program): the meeting and document that sets forth what services a child found to be eligible for special education is to receive. Also the meeting where eligibility is determined.

who attends? The iep Team consists of: a parent/educational surrogate or responsible adult, one regular education teacher, one special education teacher, an educational agency representative other than teacher, individual who conducted the assessment, other individuals with expertise or knowledge about the child’s needs at the local education agency’s or parent’s discretion, the child when appropriate.

20 usc §1414(d)(1)(b); 34 cfr §300.344; ec 56341

The IEP Process

Referral for assessment to determine eligibility for special education service starts process (may be made by parent, teacher, or other provider) but must be in writing to ensure that assessment and meeting timelines will begin.

ec 56029; 5 ccr §3021.

“Proposed assessment plan” must be submitted to child’s parent, guardian, or educational surrogate within 15 calendar days of receipt of written referral. ec 56321(a). This plan explains what types of assessments will be conducted. Gen-

Definitions

nps: A private, nonpublic, nonsectarian school that enrolls individuals with exceptional needs pursuant to an Individualized Education Program (iep).

ec 56034

placement in an nps

Students may not be placed in an nps unless they have a valid iep requiring placement at the nps, and the person holding educational rights consents. (see fact sheet on education rights.)

A student must be assessed for special education services prior to the development of an iep and placement in an nps. ec 56342.1

- The assessments conducted must conform with state and federal law.
- The student may not be assessed for special education services unless the person who holds educational rights has provided consent, and the school district has provided notice to the parent.

ec 56321(c)

Exception:

- The school district has prevailed at a due process hearing. ec 56321(c), 56506.
- idea does not require parental consent for the initial evaluation of a child who is a ward of the state and not living with her parents if the lea



What Are AB 3632 (AB 2726) Services and How Are They Provided?

ab 3632 (also referred to as ab 2726)

services are mental health services provided as part of a youth's Individualized Education Program (IEP)

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Introduction: School Discipline

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