



SPECIAL EDUCATION AND EARLY INTERVENTION ADVOCACY

Simple steps to achieving an appropriate education for
children with developmental delays and disabilities

Birth to age 22



Family. Education. Stability. Justice.

INTRODUCTION

As long-standing advocates for children with disabilities within the foster care, delinquency, mental health, regional center and school systems, The Alliance understands how confusing it is to figure out where and how to seek services for the child you are working with. This step-by-step guide is intended to provide the tools needed to seek early intervention services from regional centers for children birth to 3 years of age, and education-related services from the school system for children 3 and older. This manual is not intended as legal advice, but for practical use by pro bono attorneys, caregivers and other service providers of children in the foster care system.



The Truth About Children Who Need Early Intervention and Special Education Services

It is important to remember that all children develop and learn in different ways. Being eligible for early intervention or special education services does not mean that the child is “dumb” or cannot learn. It means the child learns in different ways, and/or needs specialized services to assist with their learning and development.

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EDUCATION RIGHTS

Who has the legal right to make decisions for early intervention and special education services?

Education Rights (ERs) give the holder the legal right to make education-related decisions for a child, including: requesting records, early intervention, and special education evaluations and assessments, and consenting to early intervention and special education services and placements in the Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP). The IFSP/IEP is the contract between the ERH and the regional center or school district for early intervention or special education services.

Who is the Education Rights Holder (ERH)?

1. **Biological Parents**
2. **Adoptive Parent:** Adoption automatically transfers ERs.
3. **Legal Guardian:** Guardianship automatically transfers ERs.
4. **Judge's Order:** Judges can limit education rights of biological parents and appoint a new ERH (via a JV-535 or minute order) such as:
 - Foster Parent
 - Prospective Adoptive Parent
 - Person acting as parent (i.e. relative caregiver)
 - Court Appointed Special Advocate (CASA)

* If you don't know who the ERH is, ask the child's court-appointed attorney or social worker.

How and why the ERH might change?

--> Education rights may be transferred if:

1. Biological parents who previously held education rights have these rights limited or terminated by the court.
2. Child is reunified with their biological parent(s) after living with someone else.
3. Child is removed from their caregiver who previously served as ERH.
4. ERH is not cooperating with advocacy efforts.

--> Contact the child's court-appointed attorney to see if there is a responsible adult in the child's life who is willing to be an ERH for the child.

1. Have the child's court-appointed attorney walk on an order to change ERH.
2. The form used in court is called a JV-535.

What if there is no ERH?

- The school district must appoint a Surrogate Parent within 30 days of determining that one is needed.
- Surrogate Parents cannot have a conflict of interest with the child, such as working for the district or being a social worker or probation officer.

CASA - Court Appointed Special Advocate

A Volunteer can be appointed as an independent advocate for the best interests of the child. They provide information, access records and help advocate for the child. They have regular contact with the child and with the court. They do not automatically hold education rights.

REQUESTING EDUCATION RECORDS

The Purpose of Records

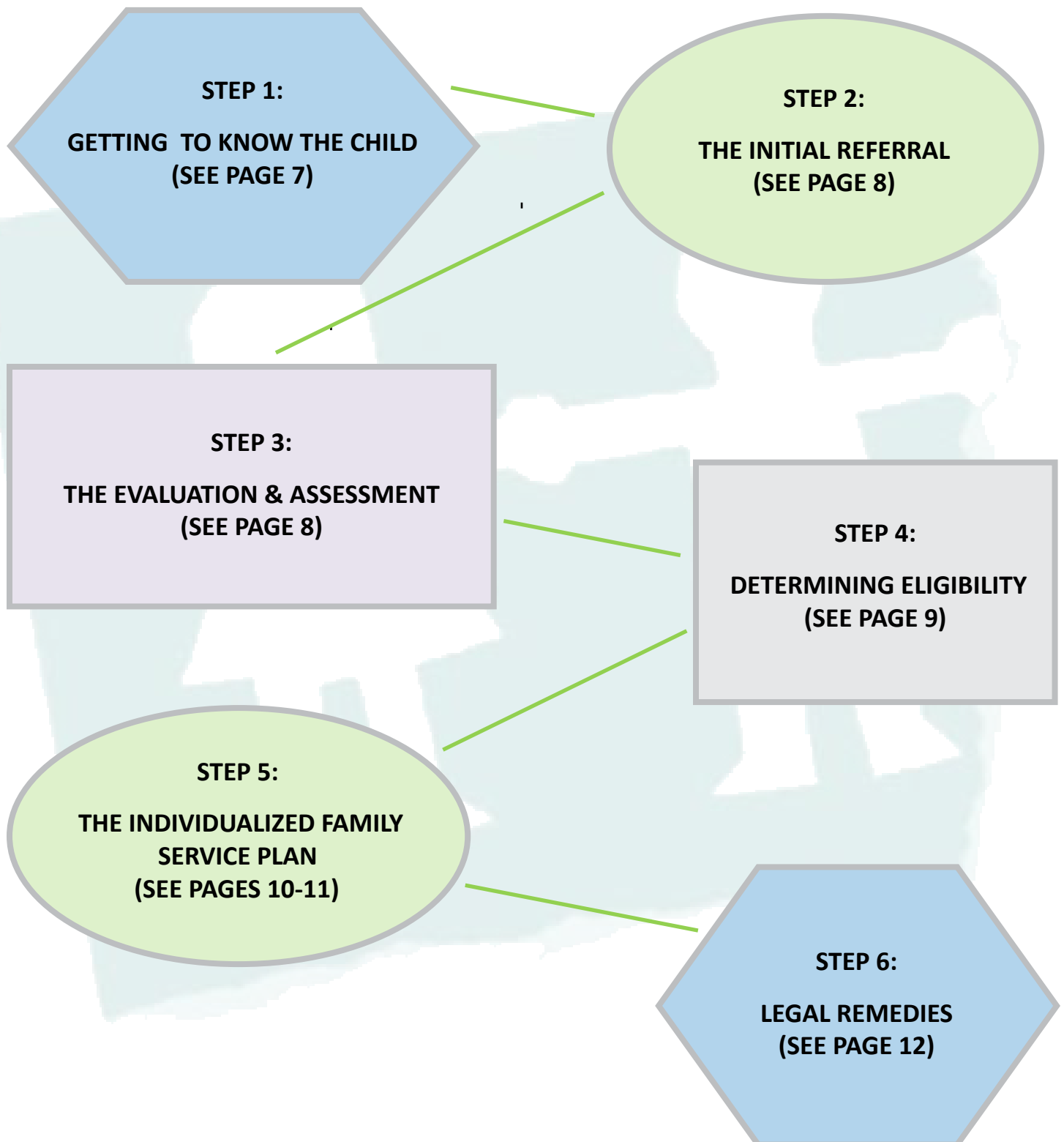
1. They help you better understand the child's needs.
2. They show the interventions that have or have not worked in the past.
3. They allow comparison between old testing and new testing to monitor academic and developmental progress.

ERHs or *Pro Bono* Attorneys, Through Their Court Appointment, Can:

- Request records.
 - Records are essential to building your case.
 - Requests should be made in writing and can, as appropriate, be requested from:
 - * The regional center,
 - * The child's physician if they have a significant birth history and the child is under the age of 3,
 - * Any and all schools and/or districts ever attended (even if the child only attended a school for a short amount of time).
 - The schools, districts and regional centers have 5 business days to provide you with the records.
 - Request that the copying costs be waived because the cost would prevent the ERH from obtaining records.
- Refer children for early intervention evaluations/assessments.
- Request special education assessments.
- Advise the ERH regarding consenting to early intervention or special education services and placements in the IFSP/IEP.



EARLY INTERVENTION ADVOCACY: STEP BY STEP



STEP 1: GETTING TO KNOW YOUR CHILD

Child Development Basics

- Children experience tremendous change and growth in their first few years of life and each child develops at their own pace.
- **Developmental Milestones:** Milestones are skills that children typically learn by a certain age such as sitting up by 6 months or talking by age 2. High quality milestones can be found at www.cdc.gov/ncbddd/actearly/milestones/.
- **Developmental Delay:** A child has a developmental delay if they are not developing at a normal rate and are not reaching their developmental milestones at the expected time.
- **Risk factors may include:** Exposure to drugs or alcohol, low birth weight, prematurity, complications at birth that cause the baby to be on a respirator, failure to thrive, having a parent with a developmental disability, serious injuries or illnesses in infancy, suffering abuse/neglect, or attachment disruptions.



What are Early Intervention Services?

- Early intervention services include speech, physical or occupational therapy, or other services designed to help children meet their developmental milestones.
- Research has shown that because children's brains are changing and growing so quickly in the first years of life, it is very important to provide them with services as early as possible.



Who Provides Early Intervention Services in California?

Local regional centers contract with the state to provide services to children 0-3 under a program called Early Start. Local education agencies serve children with low incidence disabilities.



Low Incidence Disabilities

These include children who are deaf or hard of hearing, blind or visually impaired, and children who have orthopedic impairments (i.e., caused by cerebral palsy, paralysis or spinal cord injury).

- Regardless of whether you think your child has a developmental delay or a low incidence disability, the initial referral should go to your local regional center.



STEP 2: THE INITIAL REFERRAL

- After compiling evidence that the child may have a developmental delay, low incidence disability, or a diagnosed disability such as Downs Syndrome, cerebral palsy or epilepsy, send a referral request to the child's regional center for an evaluation for Early Start Eligibility.
- If the child is a foster child, contact their social worker and request that they also submit a referral on Form 5004.
- If the social worker is not cooperative, contact the child's attorney at dependency court and request that they have the court order the social worker to make the referral.

STEP 3: THE EVALUATION & ASSESSMENT

1. **The Intake Call:** The regional center will call the ERH to explore their developmental concerns. The ERH can review developmental milestones to prepare. If the call has not happened within 1 week of the referral, call the intake department to ensure they received the referral.
2. **The Evaluation and Assessment:** The regional center will meet with the ERH in the home to evaluate and observe the child.
The regional center must obtain written permission to assess from the child's ERH before this assessment takes place.
 - **The Evaluation:** The evaluation will fully review all of the child's developmental areas (cognitive, communication, physical and motor, adaptive and social/emotional) to determine if the child is Early Start Eligible. The evaluation must include age-equivalents to calculate the percentage of delay.
 - **The Assessment:** If the child has communication, fine/oral motor or gross motor delays, the regional center must also complete a comprehensive speech and language, occupational therapy and/or physical therapy assessment prior to the completion of the 45-day timeline. These assessments will determine the services the child needs.
 - A comprehensive evaluation and assessment should include:
 - a. Standardized testing providing age levels at which the child is functioning in each of the above referenced areas (for example, child's skills are at a 25 month-old level).
 - b. Interview with caregiver regarding concerns.
 - c. Review of medical records and pertinent background information.

Timelines

- The referral date is the day you or the social worker first contacted the regional center to make the referral.
* What is your referral date? _____
- Date ERH returned written consent to the regional center to evaluate the child: _____
- The regional center has 45 days from the date of the referral to evaluate and assess the child in all necessary areas and develop the IFSP. *When is your IFSP due? _____
- If you have not heard from the regional center by day 35 to schedule the IFSP meeting, call the regional center to immediately schedule the meeting.
- Request copies of all evaluation and assessment reports prior to the meeting.
- If the IFSP is held late, the child may be entitled to compensatory or "make-up" services dating back to the date when the IFSP should have been conducted.

STEP 4: DETERMINING ELIGIBILITY

Once the child has been evaluated/assessed, analyze the results to see if the child is eligible for Early Start Services. Children are eligible for Early Start if they have a developmental delay or an “established risk condition” including a “low incidence disability” such as vision, hearing or orthopedic impairments.

1. Developmental Delay:

A child must be significantly below children their age in 1 or more of the following areas:

Cognitive Development

- Development of the child’s thinking.
- How the child learns to process information and problem solve.

Adaptive Development

- Development of the skills necessary to function in everyday life.
- Examples: eating, dressing, hygiene.

Social-Emotional Development

- Development of a child’s emotions and ability to interact with others.
- Examples: This includes skills like showing anger in a healthy way, solving conflicts, waiting their turn and playing with others.

Communication Development

- Development of how a child uses language and gestures to express their feelings, thoughts and needs.
- How the child is able to understand what others are saying to them.

Physical & Motor Development, Including Vision and Hearing

- Development of the muscles of the body, both small and large.
- Fine Motor: Includes a child’s ability to use their hands and fingers to accomplish tasks like dressing and feeding.
- Gross Motor: includes how a child is able to walk, jump, balance and climb.

What does *Significantly Below Mean*? If the child is less than 24 months old, the child must be 33% delayed in 1 of the 5 areas above. If the child is 24 to 35 months old, the child must be 50% delayed in 1 area OR 33% delayed in 2 or more areas.

NOTE: The % delay is determined through the formal evaluation and assessment conducted by the regional center. The evaluation will determine the developmental level of your child, as compared to the age of your child, to see if there is a delay.

2. Established Risk Condition:

An established risk condition exists when:

1. An infant or toddler has a condition that has a high probability of resulting in a developmental delay, such as:
 - Chromosomal Disorders such as Down Syndrome, or
 - Neurological Disorders such as Autism, Cerebral Palsy,
 - Epilepsy, Hydrocephalus, Spina Bifida and Tuberous Sclerosis.
2. When an infant/toddler solely has a low incidence disability (hearing, vision, orthopedic). For more on low incidence disabilities, see page 8.

Prevention Resource and Referral Services (PRRS)

A child is eligible if:

1. They are "at-risk" for a developmental disability due to bio-medical factors such as prematurity, exposure to drugs, low birth weight **OR**
 2. They are a toddler between the ages of 24 and 35 months with a developmental delay in 1 domain less than 49% **OR**
 3. The parent of the infant or toddler is a person with a developmental disability.
- **PRRSs** are run by family resource centers who contract with the regional centers.
 - **PRRSs** only offer information, resources and referrals. **They provide no direct services to the child.**

NOTE: Children who are not eligible for Early Start services may still be eligible for the Prevention Resource and Referral Services program. Children in this program should be re-referred and re-evaluated for Early Start as soon as they have any increased developmental concerns.

STEP 5: THE INDIVIDUALIZED FAMILY SERVICE PLAN

What is an IFSP? An IFSP is a plan to help the child's family achieve goals for the child's healthy development.

Who should be part of the IFSP team?

Required members of the IFSP team:

- Pro Bono Attorney
- Education Rights Holder for the child
- The child's service coordinator (from the regional center)
- Early intervention specialists/evaluators

Optional members:

- The child's social worker
- Other family members including biological parents (if appropriate)
- The child's CASA (if applicable)
- Others with knowledge of the child's needs

An IFSP Includes:

1) Present Levels of Development

Should identify the child's strengths and weaknesses in each developmental area, including cognitive, social-emotional, adaptive, communication and physical/motor development.

2) Developmental Outcomes

For the Child:

The goal the family has for the child's progress and growth within the next 6 months.

- Based on needs identified by the IFSP team through assessment and ERH input.
- Create an outcome for every area of need.
- The IFSP must CLEARLY describe:
 - 1) How progress toward the outcome will be measured.
 - 2) When the progress will be measured.

For the Family:

- Goals that will help the family (including foster/adoptive and biological families) support the child's development.
- For example, if a family wants to learn about their child's behavioral deficits, the regional center may provide information about the child's diagnosis and parent support/education.

3) Specific Early Intervention Services

Services designed to help the child reach their developmental outcomes, including:

- **Speech and Language Therapy**—To develop communication skills; may include helping a child express themselves by improving vocabulary or articulation (word pronunciation).
- **Physical Therapy**—To work on weaknesses that may impact walking, sitting and maintaining balance.
- **Occupational Therapy**—To develop adaptive skills to become independent. Example: feeding and clothing themselves.
- **Infant Development Services**—In home services with a specialist to work on overall development.
- **Neighborhood Preschools or Center-Based Programs**—Center-based programs are appropriate for more delayed children, while neighborhood preschools are appropriate for children with smaller delays who could benefit from being around typical developing peers. The type of service and the specific amount the child receives should be clearly written on the IFSP document.

STEP 5: IFSP (CONT.)

Duty to Use Generic Resources

- The law requires that Insurance/Medi-Cal be used to procure services (separate from evaluations/assessments) before any regional center funding is used.
- Many services (such as speech and language, occupational and physical therapy services) may be covered by the child's insurance/Medi-Cal. Accessing these services through insurance can be a slow process so it is recommended that you start the process as early as possible.
- While you go through the insurance process, request that the regional center provide "gap funding" to prevent undue delay.

Accessing Services through Insurance/Medi-Cal

- Make an appointment with the child's pediatrician and tell them about the delays.
- Request a prescription for the specific service(s) you are seeking.
- Contact The Alliance's Health Care Program to seek a nearby agency that provides the desired services and accepts Medi-Cal. Make an intake assessment appointment with that agency.
- Regardless of whether services are denied or approved, request the decision in writing and provide a copy of it to your regional center service coordinator.
- If services are approved, keep in mind that insurance may approve a smaller amount of services than the child may need. The regional center is responsible for funding the additional services.
- If services are denied, the regional center is responsible for funding all services the child needs.

Signing the IFSP

- Before the IFSP is signed, ask that all services be reviewed and that the notes be read aloud.
- If all parts of the IFSP are satisfactory, the ERH can sign it. This allows for services to start.
Note: Services cannot begin until the IFSP is signed.
- If there are parts of the IFSP that the ERH agrees with, but others that they do not, the ERH can sign for implementation of the portions agreed to, as long as that is clearly written on the signature page. This allows for agreed upon services to begin.

Request a Copy of the IFSP

- Ask for a copy of the IFSP at the meeting. Many regional centers do not create the IFSP document until after the meeting.
- Ensure that the services agreed upon are clearly outlined on the piece of paper the ERH signs. **You must walk away with a copy of this document.**

STEP 6: LEGAL REMEDIES (CHILDREN 0 - 3)

Early Start Compliance Complaint

You may file a compliance complaint with the California Department of Developmental Services (DDS) for:

- **Failure to adhere to legal timelines.**
Example: The regional center did not hold an IFSP until after the 45-day timeline and services were delayed.
- **Failure to implement portions of the IFSP.**
Example: The regional center failed to give your child speech and language therapy, even though the IFSP said that they need it twice a week.



To file a Compliance Complaint, write a letter with the following information:

1. The name, address and telephone number of the ERH and caregiver.
2. Timeline Violation: How the regional center failed to meet its deadlines.
3. IFSP Non-Compliance: What services the IFSP said it would provide (include a copy of the IFSP) and what services were NOT provided.
4. Request a remedy for the violation. You can often request compensatory or “make-up” services.
5. Mail to:

Department of Developmental Services
Attn: Office of Human Rights and
Advocacy Services
Early Start Complaint Unit
1600 Ninth Street, MS 2-15
Sacramento, CA 95814

Mediation

- Voluntary process that both parties must agree to. It is confidential and overseen by a neutral party. It is an informal method to deal with—and resolve—disagreements. You can file a request for mediation at any time.
- Mediation is available to resolve disagreements related to:
 - 1) evaluation and assessment,
 - 2) eligibility determination and
 - 3) placement and services.

Requests for mediation are filed with:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833



Administrative Due Process Hearing

- Disagreements related to identification, evaluation, assessment, placement or services can be resolved through a due process hearing.
- A lawyer is not needed to do this but the regional center or local education agency will use a defense lawyer so we advise our clients to seek counsel as well.
- A request form for a due process hearing can be obtained from the child’s service coordinator, the regional center, the school district or the Department of Developmental Services (DDS).

TRANSITIONING & PRESCHOOL

The Transition from Regional Center to School District

- Before turning 3, all Early Start children transition from the regional center to their local school district.
- When a child is 30 months old, the process starts with a transition meeting between the ERH, the child's service coordinator, and the school district.
- The school district should conduct comprehensive assessments in all areas of known or suspected disability.
- The district must hold an IEP meeting and have services necessary to meet the child's needs in place by their 3rd birthday.



FAQ

Q: What is the difference between early intervention services for children ages 0-3 and children 3-5?

A: For children 0-3, Early Start services are provided mainly through the regional center. For children 3-5, services are provided by their local school district.

Q: Why do Early Start services through regional centers stop at age 3?

A: The eligibility for regional center services changes after age 3.

Children over age 3 must have a developmental disability to qualify for ongoing regional center services, such as: Mental Retardation (Intellectual Disability), Epilepsy, Autism, Cerebral Palsy or a condition similar to Mental Retardation that requires the same treatment, and this condition must constitute a substantial disability.

The Importance of Pre-School

All children benefit from enrolling in a high-quality early care and education program to develop cognitive, language, physical, adaptive and social/emotional skills that contribute to school success, regardless of developmental delays.

Early Care and Education Options

Early Head Start and Head Start Programs: These free programs provide comprehensive early education and development classes. Early Head Start programs serve low-income pregnant women and children from 0 - 3. Head Start provides part-day or full-day programs for children ages 3 - 5. Families may obtain referrals by calling 1.877.773.5543 or visiting PreKKid.org.

California State Preschool Program (CSPP): Free part-day and full day child development program for low-income 3 and 4 year-olds.

Child Care and Development Centers: Provides developmental services for infants, toddlers and school-aged children.

Los Angeles Universal Preschool (LAUP): Part-day child development programs for 4 year old children.

How to Find an Early Care and Education Program

Call the Los Angeles Child Care Alliance Resource and Referral Line at 1.888.922.4453 and follow the steps to be connected to your local R&R.

FREQUENTLY ASKED QUESTIONS & CHILD-FIND

FAQs

Q: How young are children eligible for special education services?

A: Children as young as 3 years old can benefit from special education services from their local school district.

Q: When do children age out of services?

A: Children continue to qualify for services until they receive their regular high school diploma or the end of the semester in which they turn 22 years-old.

Q: What does a disabled child have a right to under the law?

A: If eligible, the child has a right to special education and related services.

Q: What are Special Education and Related Services?

A: An education program that is individualized to meet the child's unique needs based on their disability. This is called a FAPE: **Free Appropriate Public Education**. In order to qualify, the disability must prevent the child from benefiting from their education.

Q: How do you know if the child is not receiving a FAPE?

A: 1. The school has failed to identify or address all areas of suspected disability. 2. The child is not making adequate progress (academic or otherwise). 3. The child is not in the least restrictive environment.

Q: What does a child with an education disability look like?

A:

- Poor grades or attendance
- Difficulty with classroom activities such as writing, coloring, drawing, or learning letters and numbers
- Behavior problems
- Speech and language problems
- Problems with memory or attention
- Social or emotional problems
- Problems moving normally, such as using a pencil
- Problems seeing or hearing
- Problems performing daily living skills such as dressing, feeding or grooming in an age-appropriate manner

Child-Find

Child-Find is the school's affirmative duty to identify, locate and evaluate children who are suspected of having a disability.

Courts have interpreted this as being a very low threshold. If there is a modicum of suspicion that the child may be disabled, the child has a right to a special education assessment.

Schools commonly make the mistake that they need not assess a child because they do not believe the child would be eligible for special education. The courts have also clearly made the distinction that a school cannot refuse to assess a child because they do not believe the child would be eligible. The discussion of eligibility takes place at an IEP meeting, after the school adheres to the child-find mandate by properly assessing the child.



STEP 1: REQUESTING AN ASSESSMENT

Requesting an Assessment

- Write a letter to the school requesting a comprehensive psycho-educational assessment. State the reasons why the child is suspected of having a disability.
- You need proof the school district received the assessment request letter. Types of proof include: fax confirmation sheet, time-stamped copy from the school clerk or certified mail receipt.
- The school is required to send a written response within 15 calendar days of receiving the request.
- The ERH has 15 calendar days to review, sign and return the Assessment Plan to the school.



Tips

- Make requests in writing. Keep proof of receipt.
- Depending on your child's needs, request additional assessments (speech and language therapy, occupational therapy, physical therapy, etc.)
- Do not agree to a parent-teacher conference or a Student Study Team (SST) meeting instead of IEP testing. Both processes can go on simultaneously.
- In response to the request for an assessment, there are only 2 legal options for the district: 1) A written refusal to assess OR 2) An Assessment Plan. DO NOT accept other options!
- Review the assessment plan carefully before signing to ensure all areas of suspected disability are covered.
- Request, in writing, on the Assessment Plan, to receive a copy of the assessment reports 5 business days before the IEP meeting.

Types of Testing That Can Be Requested

1. Psycho-Educational, including:
 - Cognitive/IQ
 - Academic
 - Psychological processing including visual, auditory, sensory motor and attention processing
 - Social, emotional, behavioral
 - Health and physical development including hearing and vision
2. Speech and language by a speech and language pathologist
3. Central auditory processing by a licensed audiologist
4. Visual processing/vision therapy assessment by an optometrist
5. Fine motor and/or sensory processing by an occupational therapist
6. Gross motor by an adapted PE specialist or physical therapist
7. Vocational
8. Educationally Related Mental Health Services (see page 20)
9. Independent Education Evaluation

A Comprehensive Assessment Should Include:

1. Standardized testing
2. Classroom observations
3. Interviews of caregiver, teacher, etc.
4. Review of school records and work samples

If a Child is in Special Education, How Often Should They Be Tested?

- A child **MUST** be assessed every 3 years (Triennial Assessment).
- A child **CAN** be assessed up to once per year, if requested by the ERH.
- A child **SHOULD** be tested academically every year to track their progress.

STEP 2: INDIVIDUALIZED EDUCATION PROGRAM

What is an IEP?

An IEP is a written education program developed by the school district, teachers, and ERH. IEPs include how the child is currently doing in school, and what everyone involved wants to do for the next school year to improve the child's education outcomes.

When & Why are IEPs Held?

Generally there are 4 kinds of IEPs:

1. **Initial IEP** — To determine eligibility for special education.
2. **Annual IEP** — Each eligible child should have at least 1 IEP every year.
3. **Amendment or Addendum IEP** — ERH or school can request a meeting at any time to change or modify the existing IEP. After written parent request, the IEP must be held within 30 calendar days.
4. **30-Day IEP** — Must have an IEP within 30 calendar days after any change from 1 district to a new district in order to discuss placement options and services within the new district. District must implement the old IEP and provide 'comparable' services for the first 30 days.

Who Should Attend IEP Meetings?

Required IEP Team Members:

- Pro Bono Attorney
- Education Rights Holder
- General Ed. Teacher
- Special Ed. Teacher
- Administrative Designee
- Any person who has assessed the child or who provides services if those services are being discussed

Optional IEP Team Members:

- Parent
- Current Caregiver
- School Psychologist
- Social Worker
- Other school personnel who provide services (i.e. speech pathologist)

Five Main Components

1. Statement of Eligibility
2. Present Levels of Performance
3. Annual Goals & Objectives
4. Statement of Placement
5. Statement of Services

1. Eligibility Categories

Developmental Delay (DD)
Specific Learning Disability (SLD)
Traumatic Brain Injury (TBI)
Speech and Language
Impaired (SLI)
Mental Retardation (MR)
Other Health Impaired (OHI)

Deaf/Hard of Hearing (DHH)
Visually Impaired (VI)
Orthopedically Impaired (OI)
Emotionally Disturbed (ED)
Autistic-Like
Characteristics (AUT)
Multiple Disabilities (MD)

STEP 2: IEP (CONT.)

2. Present Levels of Performance (PLOP)

Indicates how the child is currently doing in all areas where they are having problems, including:

- Pre-academics or academics including reading, writing and math
- Emotional/behavioral/social/attention
- Speech and language
- Gross and fine motor skills
- Daily living skills
- Completing class work/homework
- Attendance

3. Annual Goals & Objectives (G&O)

Indicates what the IEP team will work on for the next year to help the child perform better in school.

- They should be easily understood and measurable (you should be able to figure out whether or not the child is meeting the goals).
- There should be at least 1 annual goal in every area of weakness.

SPECIFICITY! In both the PLOP and G&O, the school should identify the specific area of weakness for the child.

You should know **exactly** what the child's weaknesses are.

- Insufficient PLOP: "Billy is having trouble communicating." **vs.**
- Acceptable PLOP: "Billy has limited expressive vocabulary & is not able to express his feelings with words."
- Insufficient G/O: "Billy will use more words to express himself." **vs.**
- Acceptable G/O: "Billy will use 2 to 3 word phrases to communicate his needs and feelings 80% of the time."

COMPREHENSIVENESS! The IEP must have a PLOP and G&O for each area of weakness, even if this means the child has 20 of them. Make sure to check that each identified weakness has a thorough and specific accompanying goal. If Billy also has receptive language issues, he will need a goal for receptive language.

PRE-ACADEMIC	READING/WRITING	MATH	GROSS/FINE MOTOR & ADAPTIVE BEHAVIOR	SOCIAL/EMOTIONAL/BEHAVIOR/ATTENTION
1. Identifying & matching 2. Colors & shapes 3. Recognizing numbers 4. Interest in books 5. Concepts of quantity 6. Identifying body parts	<u>Reading:</u> <ul style="list-style-type: none"> • Decoding • Comprehension • Fluency • Phonics • Sight words <u>Written Language:</u> <ul style="list-style-type: none"> • Spelling • Punctuation & capitalization • Sentence structure • Paragraph structure • Multiple paragraph essays 	1. Addition/subtraction/multiplication/division 2. Computation: with or w/out regrouping 3. Word problems 4. Money/dollar sense 5. Telling time	1. Walking/running 2. Climbing stairs 3. Scribbling 4. Stringing beads 5. Building tower of blocks 6. Holding a pencil and/or forming letters correctly 7. Eating 8. Using the bathroom 9. Dressing 10. Self care	1. Time on task 2. Social skills 3. Depression 4. Temper tantrums 5. Following directions 6. Attendance 7. Homework/class work

STEP 2: IEP (CONT.)

4. Statement of Placement

A. Least Restrictive Environment

- Disabled children have a right to participate with general education (non-disabled) students for as much of the school day as they are able. This could include mainstreaming, lunch/recess and extracurricular activities if they are able to, depending on their disability.
- LREs can be composed of a combination of any of the different types of placements or services discussed below.

B. General Education

- This is the least restrictive environment.
- Pros: Students learn through positive peer modeling from their nondisabled peers. For example, good study skills, academics and/or social relationships.
- Cons: Disabled students may not get the assistance that they require to benefit from their education.
- General education for children 3-5 can include Head Starts, state preschools or general education kindergarten classrooms.

C. Resource Specialist Program (RSP)

- Students are given more individual attention to address delayed academic or organizational skills.
- **Collaboration**: RSP teacher discusses the child's needs with a general education teacher and gives them pointers on how to help the child in the general education classroom.
- **Push-In**: RSP teacher and/or aide go into the general education classroom and assist the child.
- **Pull-Out**: Student leaves the general education classroom and is taught in another classroom with less students and more individualized attention.
- RSP services for children 3-5 can include Preschool/ Kindergarten Itinerant Teachers (PKIT) services; a specialist to help your child in the classroom.

D. Special Day Class (SDC)

- Restrictive Placement: students are segregated in a classroom with no general education peers, only disabled peers.
- **CAUTION**: These types of placements sometimes can function more as a daycare than a classroom for instruction.
- Before such placements are agreed upon, the ERH should research and visit the placement.
- SDC placement options for children 3-5 can include preschool collaborative classes designed for children with mild to moderate special needs.

E. Non-Public School (NPS)

These specialized placements are for students whose academic, developmental, behavioral and/or social issues are so severe that they cannot be served in the public school setting.

- These can be inappropriate if the student's needs could be met in a public school setting.
- Before agreeing to any specific non-public school placement, you should visit and ask others about the school's reputation.

STEP 2: IEP (CONT.)

5. Statement of Services

- **Speech and language therapy:** Helps children develop expressive and receptive language skills and improve their articulation (how words are pronounced).
- **Occupational therapy:** Helps children improve fine motor and visual motor skills necessary for writing, drawing, copying and cutting. Also addresses sensory processing delays.
- **Adapted physical education:** Helps children who have difficulty with motor skills to be able to participate in PE.
- **Physical therapy:** Helps children with physical limitations access their school environment.
- **Psychological (DIS) counseling or ERMHS:** Helps children develop social and emotional coping skills and improve their behavior.
- **Audiological services or therapy:** Helps children with hearing impairments or processing disorders.
- **Low vision services or vision therapy:** Helps children with visual impairments or processing disorders.

Special Services

Transportation — Bus transportation is provided if: 1) Due to the need for special education services, the child is not attending their “home school”; or 2) A child is so disabled that they cannot get to school in a way that their age appropriate peers can (example: high schooler walking to school).

Extended School Year (ESY) — 4 weeks of instruction provided during the summer for some special education students when they have an unusual inability to recoup information lost over the summer.

Educationally-Related Mental Health Services, Formerly known as AB 3632

- Federal law requires that mental health services be provided to IEP eligible children if such services are necessary for the child to benefit from their education program.
- These services can include individual/family/group counseling or therapy, medication management and/or residential placement. Residential placement is a 24-hour care facility for those children with the most involved mental health issues.
- To receive ERMHS services, request an ERMHS assessment. Normal assessment timelines (15 and 60 day) apply.

IEP Consent

- IEP consent is the same as IFSP consent with one exception, stay-put.
- Please see page 11 for more details on IFSP/IEP consent.
- Stay-Put: If the ERH does not agree to anything in the new IEP, and wants the old IEP to stay in place, the ERH has the right to not sign the new IEP.

STEP 3: LEGAL REMEDIES (CHILDREN AGES 3 - 22)

If the ERH disagrees with the services or placement offered in an IEP or feels like the child's IEP is not being followed, there are 2 ways to take legal action against the school:

Compliance Complaint

Filed with the California Department of Education for:

1. Failure to adhere to legal timelines. (Example: The district did not provide a written response within 15 days of receiving your request for an assessment).
2. Failure to implement portions of the IEP. (Example: The district failed to give the child speech and language services for the last 2 months, even though it is outlined in the IEP).
3. You do not need a lawyer to do this!

To file a Compliance Complaint, write a letter with the following information:

What the IEP states the school will provide.

1. What the school is not providing.
2. What you want to make up for this failure.
3. Include a copy of the IEP.
4. Mail to:
Procedural Safeguards Referral Services
Special Education Division
California Department of Education
1430 N Street STE. #2401
Sacramento, CA 95814

Administrative Due Process

Lawsuit against the school district for failing to provide your child with a FAPE for the following reasons:

- >Not making adequate progress under the current IEP;
- >Failing to identify/address all areas of suspected disability;
- >Failing to offer placement in the least restrictive environment; or
- >Procedural errors that amount to: a loss of academic benefit to the child OR a denial of meaningful participation in the IEP process by the parent.

You should seek the assistance of an attorney.

Resources

Sources of Law

Individuals with Disabilities Education (Improvement) Act—(IDE(I)A) 20 United States Code section 1400 et seq. Parts B & C

Title 34 of the Code of Federal Regulations, section 300 et seq. & section 303 et seq.

California Code of Education section 56000 et seq.

California Code of Regulations—Title 5 CCR section 3000 et seq. & Title 17 CCR section 52000 et seq.

California Early Intervention Services Act, Government Code section 95000 et seq.

Case Law: Supreme Court, 9th Circuit Court of Appeals, and Office of Administrative Hearings (persuasive authority)

Other Resources

CA Composite of Laws www.scoe.net/specedbwsregs/

Special Ed Connect: www.specialedconnection.com, (password provided by ACR attorney)

Wrightslaw.com

Office of Administrative Hearings (OAH) decisions: www.dgs.ca.gov/oah/DDSHeardings/DDSDecisions.aspx & www.dgs.ca.gov/oah/specialeducation/searchdo.aspx

Alliance Special Education Program Attorneys

DISMANTLING THE SCHOOL TO PRISON PIPELINE

Barriers to Educational Success of Foster Children Lead to Placement in the Juvenile Justice System

- 19,000+ Los Angeles County children are in foster care.
- 50% of children in foster care have disabilities resulting from the neglect, abuse and trauma they suffer.
- Few youth receive appropriate special education services because they lack a qualified advocate.
- The denial of services in turn leads to more problematic behaviors.
- Overburdened schools look to the juvenile justice system to deal with “problem” students.
- 30% of children in foster care will “cross over” into the juvenile justice system.
- 66% of cross-over youth in Los Angeles have mental health issues and 87% have learning disabilities.
- Advocacy to inform the court about the child’s disability can ensure they receive appropriate services.



Prepare for Court

- Gather evidence or witnesses that support the youth.
- Bring school records of good attendance and grades.
- IF THE YOUTH HAS A DISABILITY: inform the court about how the youth’s disability affects their behavior and their ability to comply with the terms of their probation.

The Players

Public Defender: A lawyer for the youth who argues their case to the judge.

Probation Officer: Assists youth to find services needed to follow the court ordered plan.

Judge: In charge of the courtroom, they decide if the youth is guilty and sentences them to a rehabilitation plan.

District Attorney: Tries to prove the youth is guilty of the alleged crime; can also offer the youth a deal.

Disposition (Sentencing)

- **Diversion:** If the youth’s crime is very minor, they can participate in a diversion program to avoid the charge.
- **Informal Probation:** The youth stays at home and if they successfully complete the terms of their probation for 6 months to 1 year, the case is dismissed.
- **Formal Probation:** Youth can be sent to suitable placement (i.e. group home or camp) and must complete the terms of their probation for 1-3 years.
- For any disposition there are “terms” that the youth must complete include good attendance/grades, following parent rules, and possibly going to therapy and/or drug treatment.
- **Sealing Your Juvenile Record:** All youth should seal their juvenile record once they have been off probation for 6 months. Go to the court where your hearing was held and request a Petitioner to Seal Juvenile Records and Court Order.

SCHOOL DISCIPLINE GUIDELINES

School Push-Out

- Schools often 'push' problem youth off mainstream campuses, especially students with behavior or attendance problems. They give them an 'option' of going to continuation schools, although these schools have less services. They also prevent youth from returning to school due to behavior problems or lack of attendance, without formally expelling them. This can happen to children of all ages including preschool.
- Youth have a right to attend a comprehensive school the entire day. ERHs should NOT agree to pick their child up from school early or stay on campus with them all day due to behavioral problems.

Suspension

- A temporary removal from school (usually no more than 5 days).
- The school must give written notice of any suspension including the date when the student can return to school.
- Students may not be suspended for absence or tardies.
- If the student is asked to write a statement after an incident, they can politely refuse as this statement can be used against them in expulsion or delinquency proceedings.

Expulsion

- A long term removal (usually two full semesters) from all comprehensive schools in the district; it can be longer for a "Zero Tolerance" offence such as weapons, drugs, serious bodily injury or sexual harassment. You can only be expelled after a formal hearing. At hearing, the student has a right to representation, to review evidence and to present/cross-examine witnesses.
- Youth must attend school, even while under an expulsion order. The district will help you find an alternative school. You will have to apply to be readmitted to the district once you have complied with all requirements of your Rehabilitation Program (usually good grades, behavior, attendance).

Special Education and Discipline

- Schools are not permitted to subject disabled students to normal discipline procedures if the incident was caused by their disability.
- When schools want to expell a student or suspended them for 10+ days, they must hold a manifestation determination IEP.
- **Manifestation Determination:** An IEP meeting must be held within 10 days of the removal to determine: 1) if the conduct was a manifestation of or caused by the student's disability, or 2) if the conduct was caused by the school's failure to implement the IEP. If either of these is found, the IEP team must end the suspension or expulsion proceedings, conduct a behavior assessment and, create a behavior plan. If the IEP team does not find the incident to be a manifestation of the child's disability, the school may discipline the student like any other.
- If a student is not IEP eligible, but an ERH has requested an assessment in writing, prior to the behavior that led to the discipline, the school must conduct the assessment, determine the child's eligibility for special education services and then do a manifestation determination before proceeding with the disciplinary action.

EDUCATION RIGHTS OF FOSTER YOUTH

The Problem

52% of CA youth perform at grade level - 25% of foster youth perform at grade level
5% of CA students are retained in the K-3rd grade - 83% of foster children are retained in the K-3rd grade
75% of CA youth graduate from high school - 30% of foster youth graduate from high school

Within 2 Years of Aging Out

3% have earned their associates degree - 70% stating that they want to attend college
50% are unemployed - of those working, 93% do not earn a living wage
25% are incarcerated - 20% are without a home

Assembly Bill 490

Provides foster youth with specific protections for their education.

- Immediate enrollment without any of the normally required documentation such as birth certificate, proof of residence or immunization records.
- Right to Partial Credits: determined by 'seat time'; if you are in class for 17 hours, you earn 1 credit.
- Right to access academic resources, services and extracurricular activities regardless of missing sign-up deadlines.
- Every school district must have a Foster Care Liaison identified to help address these issues.

School of Origin (SOO)

- SOO is the school the child attended when they were detained from their parents OR any school they attended in the past 15 months where the child has significant ties.
- The child is allowed to stay in their SOO for the entire time they are in care and matriculate to the next level.
- When a child moves, it is the ERH's duty to make a decision about whether remaining in their SOO is in the child's best interests.
- The child has a right to stay in their SOO while disputes are resolved.
(Assembly Bills 490/1933)

Assembly Bill 167

- Foster youth are eligible if they transfer between schools during their 11th or 12th grade year.
- Schools normally require 4 years of English and History, 3 years of Math and Science, 2 years of Art/Foreign Language, and multiple elective credits, a senior project and passing the CAHSEE.
- AB 167 requires 3 years of English and History, 2 years of Math and Science, 1 year of Art/Foreign Language, no elective credits, and no senior project requirement. Youth must still pass the CAHSEE .
- Serious consideration should be taken when invoking AB 167 as the youth may not have the academic skills necessary to pursue higher education or vocational goals.

Assembly Bill 12

Foster youth can remain in the foster care system until age 21 if they meet 1 of the following eligibility criteria:

1. Completing high school or an equivalent program;
2. Attending college, community college or a vocational education program;
3. Attending a program designed to remove barriers to employment;
4. Maintaining employment for at least 80 hours per month; or
5. Unable to do one of the above requirements because of a medical condition.

AB 12 allows a foster youth to live in a Supervised Independent Living Placement and receive foster care payments until they turn 21. Youth are eligible if they lived in a suitable placement (dependency or delinquency) and were 18 years old as of 1/1/12.

HIGH SCHOOL STUDENTS & BEYOND

Are you receiving a diploma or a certificate of completion?

DIPLOMA

For those who have:

- Fulfilled credit requirements
- Passed Algebra 1
- Passed both portions of the California High School Exit Exam (CAHSEE), math and English

VS.

CERTIFICATE OF COMPLETION

For those with IEPs who have not met diploma requirements:

- Eligible for Certificate of Completion, considered to have completed their course of study
- Continue to remain eligible for IEP services until age 22

SPECIAL EDUCATION YOUTH

What services are youth entitled to after they receive a certificate of completion?

- Continued IEP supports, services, accommodations
- Continued high school enrollment
- Adult education
- Community college
- Vocational programs
- Supplemental Education Services: all foster youth are eligible
- Continuation high schools

*Youth should not agree to or sign an “Exit-IEP” just to get these services. If a youth exits special education, they may have to pay for these services.

CAHSEE (Exit Exam) Waivers

Youth with IEPs may (depending upon the year) have a right to a waiver of the CAHSEE requirement to graduate.

- Youth should strongly consider NOT accepting a CAHSEE waiver specifically so that they can remain special education eligible and continue to receive services.
- This is especially true if the youth’s academic skills are low.
- If a youth remains eligible for special education, it does not mean they have to stay in high school.

Common Acronyms

APE	Adaptive Physical Education	IFSP	Individualized Family Service Plan
AT	Assistive Technology	MR	Mentally Retarded
CASA	Court Appointed Special Advocate	ODD	Oppositional Defiance Disorder
CDE	California Department of Education	OHI	Other Health Impaired
CP	Cerebral Palsy	OT	Occupational Therapy
CSW	County Social Worker	PKIT	Preschool/Kindergarten Itinerant Teacher
DCFS	Department of Children & Family Services	PT	Physical Therapy
DD	Developmentally Delayed	RSP	Resource Specialist Program
DHH	Deaf or Hard of Hearing	SDC	Special Day Class
DMH	Department of Mental Health	SELPA	Special Education Local Plan Area
DIS	Designated Instruction and Services	SLI	Speech and Language Impaired
ED	Emotionally Disturbed	SLD	Specific Learning Disability
ERH	Education Rights Holder		
ESY	Extended School Year		
FAPE	Free Appropriate Public Education		
LEA	Local Education Agency		
LRE	Least Restrictive Environment		
IEP	Individualized Education Program		