



Disability Rights Education & Defense Fund

Special  
Education:

Basics+Beyond





## Disability Rights Education & Defense Fund

- Unique alliance of people with disabilities and parents of children with disabilities.
- National law and policy center dedicated to protecting and advancing disability civil and human rights.
- VISION: a just world where all people live full and independent lives free of discrimination.
- Disability rights are civil rights.
- Information is power!  
Children with disabilities who have consistent, knowledgeable advocates are most likely to receive appropriate services & supports!





Disability Rights Education & Defense Fund

## DREDF Children & Family Advocacy:

- Parent Training and Information (PTI) Center for Alameda, Contra Costa & Yolo.
- Foster Youth Resources for Education (FYRE) for Alameda County.
- Class Action legal cases - systemic abuse.
- Educate legislators and policy makers on issues (such as IDEA, ADA) affecting the rights of people with disabilities.



# Course Objectives:

## UNDERSTAND:

- Laws that protect students with disabilities
- 6 Core Principles of Special Education (IDEA) law.
- Cycle of Special Education
- Skills in advocating
- Options when parents & schools disagree





Laws:

That protect students  
with disabilities




# NCLB

## No Child Left Behind / 2002

- Federal **Education** Law.
- **ALL students** with a focus on “under-served” students.
- School accountability.  
Increase school performance/outcomes.
- Highly-qualified teachers and paraprofessionals.
- Ability to change school or obtain remediation if school fails to meet Adequate Yearly Progress (AYP).

# FERPA

## Family Educational Rights & Privacy Act

- Federal Education Privacy Law
- ALL students.
- Right to inspect and review “any and all” records the district keeps  
 Timeline in CA: 5 days
- Right to request correction of records
- Right to consent to disclosure of personally identifiable information contained in education records

# 504

## Section 504 of the Rehabilitation Act / 1973

- Federal **Anti-Discrimination** Law.
- Protects **ALL PEOPLE** with a disability that impairs one or more major life activities (such as learning).
- Prohibits discrimination in **ANY** program that receives **Federal \$\$\$\$\$**.
- Provides **Accommodations** to remove discriminatory barriers.
- **“504 Plan”** removes barriers to learning and educational opportunity.





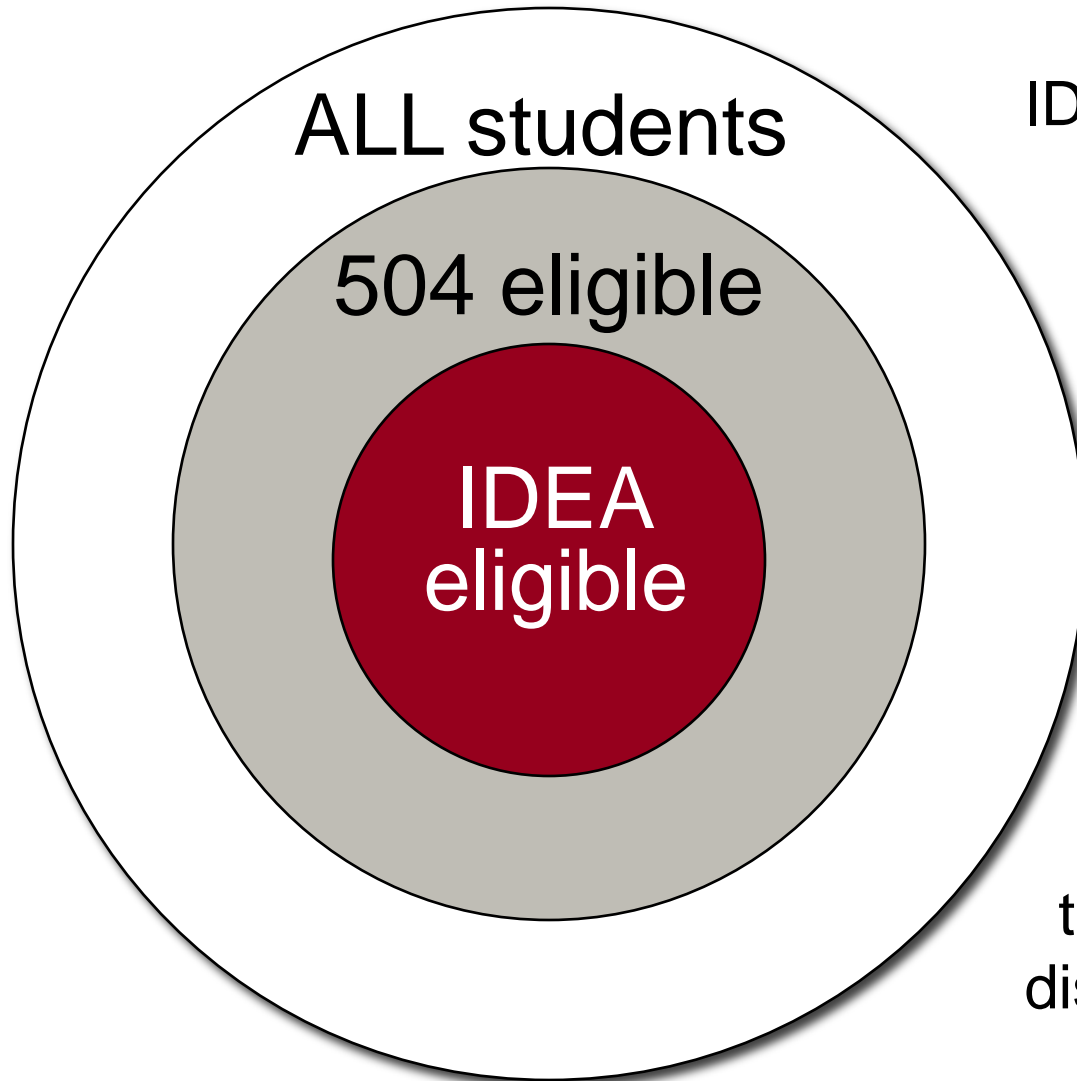


# IDEA

## Individuals with Disabilities Education Act / 1975

- Federal **E**ducation Law.
- Student must fit at least 1 of 13 categories of disability, **A**ND
- **A**LSO needs specialized support and instruction to benefit from education.
- Provides an “**I**EP”: special education plan
  - specialized instruction
  - supportive related services
- “**I**EP” must be individualized to meet a student’ s unique needs.

# Relationship of Protective Laws



IDEA-eligible students are protected by **ALL** these laws just discussed.

A Student with an IEP may **also** need accommodations to prevent discrimination.



**IDEA:**

**Federal  
Special Education  
Law**



# IDEA: Purpose

“(c) **Findings.** Congress finds the following: Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self sufficiency...”

“(d) **Purposes.** The purposes of this title are - (1)(A) to ensure that all children with disabilities have available to them a **free and appropriate public education [FAPE]**...designed to meet their **unique** needs **AND** prepare them for further education, employment, and **independent living...**”

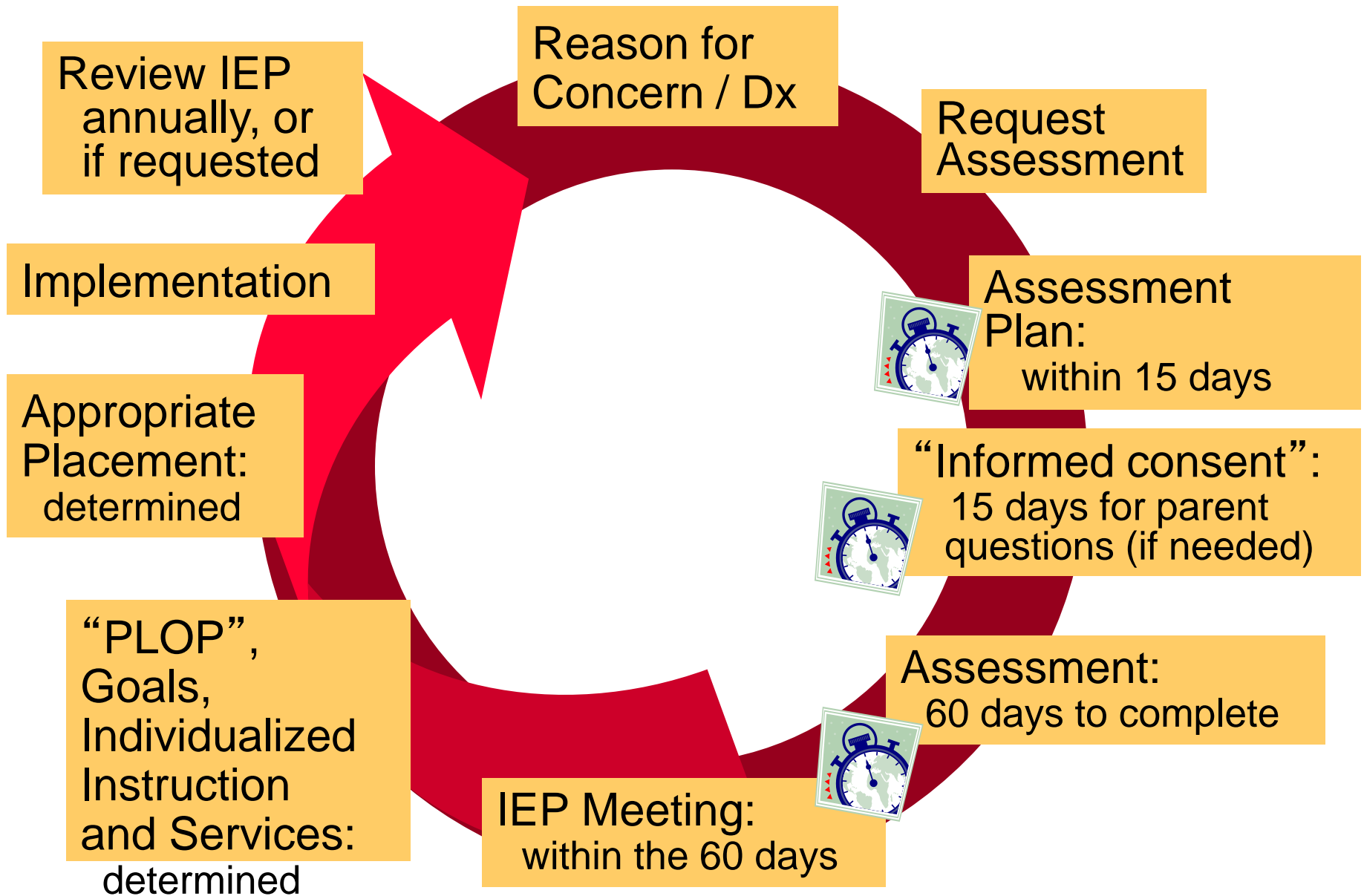
—IDEA / 20 U.S.C. § 1400

# IDEA: 6 Core Principles

1. Appropriate Evaluation/Assessment
2. Free & Appropriate Public Education (FAPE)
3. Individualized Education Plan (IEP)
4. Least Restrictive Environment (LRE)
5. Parent (and student if appropriate) participation in the decision-making process
6. Procedural Safeguards



# Cycle of Special Education





# IDEA: Assessment

To determine  
the need for  
Special Education

# Special Education Assessment

- ★ • Parent (or others) WRITE to request Special Education assessment. [ DREDF has sample letters!]
- “Request for Assessment” letter to Special Education director, cc others.
- **SAFEGUARD:** If parent asks verbally, district is obligated to help put request in writing.
- Comprehensively assess  
“in all areas of suspected disability”  
to determine need for special education.
- **TIP:** Ask also for “504 assessment”  
in case child does not qualify under IDEA.  
Saves precious time.





# Special Education Assessment

- **SAFEGUARD:** WRITTEN request triggers strict timeline and an “affirmative obligation” to assess.  
“CHILD FIND” provision of IDEA law



**15 calendar days from request:** district must provide “Assessment Plan” for parent consent.



**+15 calendar days if needed:** parent questions plan.



**60 calendar days:** from parent consent, district evaluates and holds IEP meeting.

- **TIP:** A request for special education assessment legally supersedes a Student Study Team (SST) meeting.



# Assessment Rights

- Parent consent.
- Assess in child' s language/mode of communication.
- Variety of tools & strategies must be used to determine:
  - If a child has a disability under IDEA
  - Contents of the IEP document
- Technically sound instruments. Qualified professionals.
- Independent (outside) assessments **must** be considered.
- Triennial (3 year) assessment, or upon “exit”
- Right to request assessment when needed.
- Right to review results in advance.  
Reports translated when feasible.
- Right to disagree with assessment: **“IEE”**



# IEE: a “2<sup>nd</sup> opinion”

“Independent Educational Evaluation at public expense”

- Right to disagree with district assessment(s).
- ★ • Parent sends WRITTEN notice, or request, for “IEE at public expense”.
- “Without unnecessary delay,” district must:
  1. Say YES and pay for the IEE [or]
  2. Say NO by filing for a Due Process hearing to prove district assessment was appropriate. Judge decides.
- Independent Educational Evaluations MUST be considered, no matter who paid.
- Qualified evaluator is necessary.
- **NO** requirement to pick from district list.



# IDEA Eligibility

Birth up to age 22\*

meets at least 1 of 13 eligibility categories:

1. Autism
2. Deafness / HH
3. Deaf-Blindness
4. Hearing Impairment
5. Intellectual Disability
6. Multiple Disabilities
7. Orthopedic Impairment
8. Other Health Impairment
9. Serious Emotional Disturbance
10. Specific Learning Disabilities
11. Speech or Language Impairment
12. Traumatic Brain Injury
13. Visual Impairment / Blindness

**AND** who by reason of their disability needs **special** education and related services in order to benefit from their education. **Determined by the assessments!**



\* or sooner if the student earns a full high school diploma



**IDEA:**

**The IEP Meeting**

# IEP: Preparation

- Child' s Dreams / Concerns / I WISH...
- Parent Vision Statement
- Network! **TIP: Join your CAC. Join family-driven listserves.**
- Prior Meeting with Teachers
- GOOD RECORDS! Organize IEPs, Evaluations, Progress, Work
- Find out availability of people you need at the IEP and invite.
- Observe Placements.
- Prepare Agenda.
- Prepare Parent Questions/Concerns.
- Prepare “Parent Report” You are an EXPERT!
- Study your rights! **TIP: The SERR book!**



# IEP: Preparation

- **SAFEGUARD:** District must provide WRITTEN NOTICE of IEP meeting. (date, time allotted & participants)
- Let district know ASAP if you need another date/time. “Mutually agreeable”
- Let district know what team members you need there. But **YOU** be proactive!
- Provide WRITTEN notice at least 24 hours in advance:
  - to tape record IEP meeting.
  - to bring an attorney.
- **TIP:** Request/remind district to provide assessment reports 5 working days **before** the IEP meeting.



# IEP: Required Team

- Student (as appropriate). At 16 **MUST** be invited.
- Parent/Guardian (or person with Educational Rights)
- Administrative Designee\*  
\*Knowledgeable about General Ed curriculum, programs/services/resources. Qualified to supervise the IEP. **AND** with POWER to commit district resources.
- At least 1 General Education teacher if student included or **may be** included with/non-disabled students
- At least 1 Special Education teacher
- Persons who conducted assessments or persons qualified to explain assessments.
- Student's related service providers.





# IEP: Team rules

- Translators as requested.
- Parent or district may invite others.  
Person inviting has the right to determine appropriateness.
- Required team member excused **ONLY** when the parent AND the district consent.
  - Parent must consent in writing.
  - Excused person must submit PRIOR input in writing.
- Team member may be excused when her area is not being discussed or modified.
  - Parent must consent in writing.
- Teams can meet by alternate ways:  
Speakerphone, video conference, etc.





**IDEA:**

**IEP Components**

# IEP: Think of it this way!

- Special Education is a **SERVICE**
- brought to the student **through the IEP**
- in order to **CLOSE THE GAP**
- between the student's  
Present Level of Performance  
(PLOP)
- and the student's Expected  
Level of Performance



# IEP: Big Questions

- Where is student now? **Present Levels Of Performance (PLOP)**
- Where is student going? **GOALS/OBJECTIVES**
- How will student get there? **SERVICES & INSTRUCTION**
- How do we know when student/we have succeeded?  
**MEASUREMENT: What objective DATA will tell us?**
- How and when will progress be reported?  
**PROGRESS REPORTS:**  
**=ACCOUNTABILITY =STAYING ON TRACK.**



# IEP: PLOP

Present Levels Of (educational) Performance  
Academic AND Functional performance\*

- How disability affects student involvement and progress in the general curriculum.
- For Pre-K age children, how disability affects participation in appropriate activities
- \* Educational performance is a BROAD term specifically selected by Congress
- PLOP is **NOT** limited to Academic Performance



# IEP: Goals

## Measurable Annual Goals

Including Academic AND Functional Goals

- To meet INDIVIDUALIZED needs so the student can be involved & make progress in the **General Education curriculum**.
- To meet other INDIVIDUALIZED education-related needs that result from disability.
- For children with severe disability, IEP goals must include “benchmarks” or short-term objectives.



# IEP: S.M.A.R.T. Goals

## **S**PECIFIC:

clear descriptions of the knowledge and skills that will be taught and how the child's progress will be measured.

**M**EASURABLE: you can count or observe it.

**A**CTION WORDS: "student will be able to . . ."

**R**EALISTIC / **R**ELEVANT: to child's **unique** needs that result from the disability.

**T**IME-LIMITED: what does the child need to know and be able to do after 1 year of special education?  
Monitored at regular intervals.



# IEP: Goals Drive Services!

- Goals are THE MAJOR FACTOR in determining IEP services and placement!!!!
- Goals should be written for **ALL NEEDS** identified by assessment and PLOP.
- Goals must be “camera ready”  
Clear picture of what will be implemented and how.
- Appropriate services, instruction and intensity derived from what is needed for the student to make expected/meaningful progress on goals.  
**“Is there enough gas in the car?”**





# Goal: Clarity

- **EXAMPLE:**  
Stan will communicate better.
- **REWRITE!**  
Stan will increase his sign language vocabulary to 300 words as described in the sign language notebook that travels between home and school by June 30.



# Goal: Appropriate Measurement

- **EXAMPLE:**

Timmy will cross the street safely 80% of the time.

- **REWRITE!**

Given a supervisor's direction to look both ways twice before crossing, Timmy will take the supervisor's hand, say "look twice" and look both ways twice, say "safe" when it is safe, and cross the street safely 100% of the time.

*80% is not acceptable criteria  
for this skill!*

*Timmy had a 20% opportunity  
to be killed!*



# IEP: Progress

HOW Progress will be measured.

HOW OFTEN written reports of progress issued.

- Measurements should be objective, not just subjective.

**Subjective:** measured by “teacher observation”

**Objective:** measured by “work samples, teacher made tests, STAR tests, data collection.”

- **Progress Reports** should “mirror” the goal measurement (show%) & be specific.

**NOT:** “he appears to be making progress”

**BUT:** “he knows 75% of sight words now”



# IEP: Services

Special Education AND Related Services  
and any other individualized supports and services  
the student NEEDS to:

- Make progress toward annual goals.
- Make progress in the General Ed curriculum.
- Participate in extracurricular and non-academic activities.
- Be educated & participate with ALL children.
- Not enough to benefit from a service.  
It must be **needed** to provide **FAPE**.



# Related Services Professionals

- Audiology/Interpreter Services
- Braille
- Counseling Services
- Early Identification & Assessment of Disabilities
- Medical Services  
(To determine eligibility)
- School Health Services  
(for health-related needs)
- Occupational Therapy
- Orientation & Mobility Services
- Parent Counseling & Training
- Physical Therapy
- Psychological Services
- Recreation
- Rehabilitation Counseling Services
- Social Work Services in School
- Speech/Language Pathology Services
- Transportation
- Interpreter Services
- Transition Specialist
- Vocational Trainer/Counselor

& others as needed.

”This is not an exhaustive list.”

— US Dept. of Education  
IDEA and IDEA regulations

# IEP: Service Page

Specialized instruction & Services

Defined with frequency, location, duration.

Example: SLP, 2x/45 min/week, push-in, group social skills.

- Pay close attention to the “Service Page”.
- Watch out for “Mom requests”
- Watch out for “up to” to describe frequency or duration. (*This could mean **no** service is OK.*)
- Surprise “end dates”?
- “Push-in” or “Pull-out”? Why?
- Direct 1:1 or “group” or “consult”?
- Appropriate people providing?
- IEP GOALS should drive the services.



# IEP: Extended Services

Specialized Instruction & Services  
beyond typical school year or even school day,  
if necessary.

Data or assessment shows child will regress  
without such services.

- Beyond the normal school year:  
Extended School Year (ESY)
- Beyond the normal school day:  
Extended School Day (ESD)



# IEP: Testing Variations

INDIVIDUALIZED for  
State and District standardized tests.

- “Accommodations”  
Remove barriers but do not alter what is being tested.  
Example: frequent breaks, math problem read aloud
- “Modifications”  
Modifications alter what is being tested.  
Example: calculator on math test
- If “Alternate Assessment” is needed,  
team must define why.  
(Ex: CAPA for student w/severe disability)





# IEP: Student Accommodations

INDIVIDUALIZED IN THE IEP!

Create equal access and equal opportunity.

Remove discriminatory barriers.

- Timing: More time to complete assignments;  
Frequent breaks
- Environmental: Quiet setting; Preferred seating,  
Elevator key
- Health: Help with glucose testing;  
Nut-free lunch table
- Assistive Technology (AT):  
Computer access; FM system, Pencil grip



# IEP: Placement

## LAST part of IEP Meeting

- Placement is a “set of services” provided to the student.  
**NOT** a **PLACE** for the student to go!
- Protect Least Restrictive Environment “LRE.”  
**TIP:** Watch out for “label and sort.”
- Appropriate placement is one in which the student has a reasonable expectation of achieving IEP goals.
- **Ask for OBSERVATIONS!**  
How can parent consent to placement without observation?



# IEP: LRE

## Least Restrictive Environment

The extent to which the student will or will not learn with and participate in school with students without disabilities AND WHY.

- % in GenEd / % removed from GenEd.
- **Strong** presumption in IDEA that students with disabilities learn with Non-Disabled peers.  
Home school. General Ed. Typical classes.
- **ASK:**  
Where is the data that supports removal from typical learning environment?



# IEP: LRE

## Least Restrictive Environment

- Student should not be removed from typical classes UNLESS, even with supplemental aids and services, education cannot be achieved satisfactorily  
Ex: student does not progress on IEP goals.
- If not, team can consider placements options on the “continuum”:
  - Special Day Class
  - Non-public (private/special) school
  - Home/Hospital setting
- **TIP:** Watch out: “student needs small group instruction to benefit from education.”



# IEP Tips: Build Partnerships

- Model what YOU expect from others!
- Protect relationships.
- Ask “Help me understand...” questions.
- Be responsive. Follow through.
- Share ideas that support the team.
- Encourage your child to value school.
- Don’ t visit only when there are problems.
- Be proactive – not reactive.
- Let the team know what’ s important to you.
- Say: “Thank you.” Say: “I’ m sorry.”
- Have *“the courage to forget.”*
- Remember: parent is equal member of the TEAM!!



# IEP Tips: At the Meeting

- BUSINESSLIKE: Hard on the issues. Soft on the people.
- Bring child or photo of child. **WHY WE ARE HERE!**
- Bring key people.
- Be on time. Arrive early to get yourself together. Greet people.
- Bring food and drinks. (Motivation and energy!)
- Bring copies of your agenda, reports, evidence, proposals.
- Find out who the Administrative Designee is.  
Sit next to the decision-maker.
- Be vigilant of note keeper!  
Document/Memorialize in IEP basis for:  
the “YES-s” the “NO-s” the “I don’t know-s”



# IEP Doc: Check carefully!

**\*\* The IEP is a LEGALLY-BINDING document!!!!\*\***

- Sign in that you are an IEP participant, but...
- Before **CONSENTING** (AGREEING TO SIGN) the IEP:  
Ask for copies of the IEP & other documents.  
**TAKE HOME FOR VERY CAREFUL REVIEW!**

*Your signature is as valuable as GOLD!!!*

**ASK YOURSELF:** “Would I sign any other legally-binding document without adequate time for a thorough review?”

**KNOW THAT:** Parent can:

Agree to “parts” of an IEP so they can be implemented.

Attach “**Parent Exceptions to the IEP**” outlining disagreements.

# IEP Doc: Checklist

- Contact info correct?
- Disability eligibility category correct?
- Required IEP team members participate?
- Annual review date correct? / 3-year review date correct?
- Least Restrictive Environment (LRE) protected?
- BASIS** for offer of FAPE comply with IDEA?
- Specialized Instruction/Services **SPECIFIC?**  
WHAT exactly will be provided? / FREQUENCY: How often?  
DURATION: How much time? / INTENSITY: 1:1 or group?  
WHERE/WHY: Push-in or Pull-out? WHO?
- START / END Dates correct?
- Person Responsible correct?
- Assistive Technology (AT) considered?
- Accommodations/Modifications individualized?
- Transportation considered? Delineated?



# IEP Doc: Checklist

- Extended School Year (ESY) +/- Extended School Day (ESD)?
- Gifted Services? AP Classes? Remedial Instruction? ELL?
- Extra Curricular Activities/Non-Academics?
- Additional Evaluations specified? *(Is the IEP team struggling?)*
- Positive Behavior Support or Intervention Plan (BSP or BIP)?
- Transition to Adult Services: College, Voc Ed, Living Skills?
- Graduation Planning? CAHSEE testing?
- IEP Notes accurate/complete?
- Parent Concerns clearly documented? Addressed?
- Questions/requests clearly answered?
- Rights clearly explained? Translated?
- Parent Exceptions to the IEP clearly stated/attached?  
(if you disagreed)



## Disputes:

When things go wrong in implementing the IEP.

[or]

When parents and schools don't even agree on the IEP.

# Tips: Conflict Preparation

DOCUMENT! DOCUMENT! DOCUMENT!

“If it was never written, it was never said and will never be done.”


- Work out problems through **LETTER WRITING**.  
See [www.wrightslaw.com](http://www.wrightslaw.com) Search: “Letter to a Stranger”
- Make requests **IN WRITING**.
- Expect and request district responses **IN WRITING** : (PWN)
- Expect Timelines to be met.  
**TIP:** Send with proof of delivery
- Document conversations and calls:  
Date. Time. Who/title. Contact info.  
What was discussed. What is understood.  
What is expected result. Follow up in writing.
- If Behavioral/Discipline concerns:  
Document every removal from class or school!



# Tips: If Conflict Arises

## OPTIONS:



- Request “any and all” Records (FERPA). 
- Review Goals and Objectives: Are they “S.M.A.R.T.”?
- Meet with key people.
- Prepare “IEP Parent Exceptions”:
  - Concerns with Recommendations/Offer
  - Basis
  - Your Proposals/Remedies



- Request IEP Meeting (30-day timeline). 
- Request **Prior Written Notice** (get basis/data)



- Request Assessment (or IEE if appropriate):  
Is there conflicting information?  
Is the IEP team struggling?  
Does the team need clarity? Additional info?



# Prior Written Notice (PWN)

- When district **proposes or refuses** to do something that involves the child's identification, assessments, placement, or FAPE. Parent is required to receive PWN. **ASK FOR IT!**
- PWN must include:
  - (1) Description of action proposed or refused.
  - (2) Explanation of why school proposes or refuses to take that action.
  - (3) Each evaluation, procedure, test, report, etc. the school used as a **BASIS**.
  - (4) Copy of the parent's rights to challenge the action or inaction.
  - (5) Sources of advocacy assistance for parents.
  - (6) Other options the school considered and why they were rejected.
  - (7) Other reasons for the school's action or inaction.

# Alternative Dispute Resolution

**“ADR”**: Informal means to resolve disputes

- Write an effective **letter**. Create evidence.
- Involve key stakeholders/**decision-makers**:  
Superintendent; SpEd Director; school board member
- **SELPA “Facilitated IEP”**: Neutral facilitator runs IEP
- School District or SELPA **“Solution Team”**
- **District level “Compliance Complaint”**
- **“Mediation-Only” Request**  
Office of Administrative Hearings (OAH) will send a FREE Mediator **BEFORE** filing any formal Due Process complaint.  
FAST: in 15 days  
[www.documents.dgs.ca.gov/oah/forms/2006/se/mor.pdf](http://www.documents.dgs.ca.gov/oah/forms/2006/se/mor.pdf)



# Formal Complaints:

## Types

# 504: Civil Rights Discrimination Complaint

- **Office for Civil Rights (OCR)**  
Regional Office IX  
90 7th Street, Suite 4-100  
San Francisco, CA 94103  
415-437-8310 TEL / (415)437-8311 TDD  
415-437-8329 FAX  
Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)  
URL: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)
- **CDE Office of Equal Opportunity (OEO)**  
916-445-9174 TEL  
916-324-9818 FAX  
URL: [www.cde.ca.gov/re/di/eo](http://www.cde.ca.gov/re/di/eo)





# 504: Civil Rights Discrimination Complaint

- Complaint describes and provides evidence that:
  - Institution that receives Federal funds discriminated against student on the basis of his/her disability.
  - Educational opportunity is not commensurate with non-disabled peers (“level playing field”).
- File **within 6 months** of alleged violation.



# IDEA

## Compliance Complaint

- California Dept. of Education (CDE)  
Special Education Division  
Procedural Safeguards Referral Service (PSRS)  
1430 N Street, Suite 2401  
Sacramento, CA 95814  
800-926-0648 TEL / 916-323-9779 TTY  
916-327-3704 FAX  
Email: [speceducation@cde.ca.gov](mailto:speceducation@cde.ca.gov)  
Web: [www.cde.ca.gov/sp/se/fp](http://www.cde.ca.gov/sp/se/fp)
- Hours: M–F 9am–4pm



# IDEA

## Compliance Complaint

- Describes & provides evidence that district:
  1. Failed to carry out an agreed-to IEP.

Ex: “The 4/8/09 IEP says my child is supposed to receive speech therapy 3X/week, but X School District did not provide any speech therapy from 09/11/09-3/26/10. A copy of the IEP is attached.”

**and/or 2.** Violated Procedural Safeguards in IDEA law.

Ex: “Required IEP team did not participate in the 3/26/10 meeting. See attached IEP.”

- File within **1 year** of alleged non-compliance.
- **FYI:** Teachers & Staff may file.  
“Whistle-blowing” protections.



# IDEA

## Due Process Complaint

- Office of Administrative Hearings (OAH)  
Special Education Division  
2349 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833  
916-263-0880 TEL  
916-376-6319 FAX  
URL: [www.oah.dgs.ca.gov/Special+Education](http://www.oah.dgs.ca.gov/Special+Education)



# IDEA

## Due Process Complaint

- “Trial-like” legalized process.

When Parent & School District have **BIG disagreements**:

- whether student is eligible for special education [or]
  - whether the IEP services or placement offered provide a “Free and Appropriate Public Education (FAPE)”
- Administrative Law Judge (ALJ) resolves.
  - Parents or Districts can file.  
Person who files has **BURDEN OF PROOF**.
  - Must file within **2 years** of alleged complaint



# ADR

## if Due Process Complaint Filed

- Due Process “Resolution Meeting”
  - New to IDEA 2004
  - Required to create an early opportunity to come to agreements, unless BOTH parties waive.
- Due Process Mediation:
  - Another way/opportunity to resolve issues
  - Strictly voluntary
  - Different rules from “Mediation-Only”
- Download DREDF “Guide for CA Families: Special Education Due Process and the Resolution Meeting”:

[http://dredf.org/special\\_education/dueprocess.pdf](http://dredf.org/special_education/dueprocess.pdf)

# Due Process Mediation

Can we talk?

- Voluntary.
- Cannot delay Due Process Hearing.
- Trained impartial Mediator provided.
- No cost to parent.
- Timely & in convenient location.
- Written agreement is binding.
- Confidential info (cannot be used at hearing!).
- **CAUTION:** Different Rules from “Mediation-Only”  
Due Process Mediation allows for Attorneys to accompany clients.  
Mediation-Only does not allow attorneys or paid advocates.

# Due Process Hearing Decisions

- Whether child received Free, Appropriate Public Education (FAPE), and/or
- Procedural Violation: Child did not receive FAPE **only if** procedural errors:
  - 1) impeded child's right to FAPE.
  - 2) substantially impeded parents' participation in FAPE decisions for their child.
  - 3) caused a deprivation of educational benefit.
- Administrative Law Judges (ALJ) conduct DP Hearings and issue decisions.
- Either party may appeal a hearing decision.



# IDEA

## Due Process Complaint

- OAH Forms: [www.oah.dgs.ca.gov/Forms/SE+Forms.htm](http://www.oah.dgs.ca.gov/Forms/SE+Forms.htm)
- “OAH Guide to Understanding Special Education Due Process Hearings” 2009:  
[www.documents.dgs.ca.gov/oah/SE/SE%20Guide%20to%20understanding%20DPH.pdf](http://www.documents.dgs.ca.gov/oah/SE/SE%20Guide%20to%20understanding%20DPH.pdf)
- OAH Decision listserve to study decisions!  
Send Name/email to:  
[Mckenzie.Kudrna@dgs.ca.gov](mailto:Mckenzie.Kudrna@dgs.ca.gov)



# U.S. Supreme Court and Due Process

- **Shaffer v. Weast - 2005**  
Burden of proof in an administrative hearing challenging an IEP is placed upon the party seeking relief.  
**BURDEN OF PROOF** is on filer.
- **Arlington Central USD v. Murphy - 2006**  
Parents who prevail in special education due process hearings are not entitled to recover fees paid to expert witnesses as part of their “costs.”
- **Winkelman v. Parma - 2007**  
Parents enjoy rights under IDEA.  
Parents are entitled to prosecute IDEA claims on their own behalf.
- Net effect.





# Family Participation: Get involved! Be a Leader!

- NOTHING ABOUT US WITHOUT US!
- THE FAMILY PARTICIPATION FUND provides assistance for family members to attend and participate in POLICY-MAKING MEETINGS related to special education.
- Families can receive up to \$1000 a year!
- More information can be found online at: <http://cafec.org/family-participation-fund>

# Questions?

**PLEASE...**

Fill out your **EVALUATIONS**  
before you leave.

**PLEASE...**

Consider providing tax-deductible donations  
to DREDF so that other families can benefit  
from our **FREE** services!

**Thank you!!**





# DREDF Resource Links

DREDF “Guide to CA Families: Special Education Due Process and the Resolution Meeting”

[http://dredf.org/special\\_education/dueprocess.pdf](http://dredf.org/special_education/dueprocess.pdf)

**DOWNLOAD DREDF Training Materials & Publications!**

[www.dredf.org/special\\_education/trainings.shtml](http://www.dredf.org/special_education/trainings.shtml)

[www.dredf.org/publications/publications.shtml](http://www.dredf.org/publications/publications.shtml)

[www.dredf.org/special\\_education/special\\_ed\\_resources.shtml](http://www.dredf.org/special_education/special_ed_resources.shtml)

DREDF:	<a href="http://www.dredf.org">www.dredf.org</a>
CARS+:	<a href="http://www.carsplus.org/links.php">www.carsplus.org/links.php</a>
CDE Special Education:	<a href="http://www.cde.ca.gov/sp/se">www.cde.ca.gov/sp/se</a>
CDE Home:	<a href="http://www.cde.ca.gov">www.cde.ca.gov</a>
CDE/PENT (Behavior):	<a href="http://www.pent.ca.gov">www.pent.ca.gov</a>
Disability Rights CA (DRC):	<a href="http://www.disabilityrightsca.org">www.disabilityrightsca.org</a>
PACER:	<a href="http://www.pacer.org">www.pacer.org</a>
	<a href="http://www.taalliance.org">www.taalliance.org</a>
NICHCY:	<a href="http://www.nichcy.org/">www.nichcy.org/</a>
OSEP:	<a href="http://www.osepideasthatwork.org">www.osepideasthatwork.org</a>
Wright’ s Law:	<a href="http://www.wrightslaw.com">www.wrightslaw.com</a>



# Resource Books

## **SPECIAL EDUCATION RIGHTS & PROCESS:**

“Special Education Rights & Responsibilities” (SERR)

<http://www.disabilityrightsca.org/pubs/504001SERR.htm>

CA Dept. of Ed “A Composite of Laws” order form:

[http://www.iusd.org/parent\\_resources/pdfs/27th%20ed%20SpEd%20laws.pdf](http://www.iusd.org/parent_resources/pdfs/27th%20ed%20SpEd%20laws.pdf)

Other CDE Publications: [www.cde.ca.gov/re/pn/rc](http://www.cde.ca.gov/re/pn/rc)

“Negotiating the Special Education Maze”

Winifred Anderson, et. al.

“The Complete IEP Guide” Nolo Press

Lawrence M. Siegel

“Special Education Law” [www.wrightslaw.com](http://www.wrightslaw.com)

## **GOALS:**

“From Gobbledygook to Clearly Written Annual IEP Goals”

“Writing Measurable IEP Goals and Objectives”

Barbara D. Bateman

## **ADVOCACY:**

“From Emotions to Advocacy” [www.wrightslaw.com](http://www.wrightslaw.com)



## Disability Rights Education & Defense Fund

As your Parent Training & Information (PTI) Center for Alameda, Contra Costa and Yolo counties, DREDF provides technical assistance and training to parents/guardians of school-age children with disabilities, and professionals who serve these students and their families.

Please contact us with concerns & questions:

Phone	510.644.2555
Toll Free	800.348.4232
Fax/TTY	510.841.8645
Email	<a href="mailto:iephelp@dredf.org">iephelp@dredf.org</a>
Website	<a href="http://www.dredf.org">www.dredf.org</a>

