

## Chapter 1: Information on Basic Rights

Special education programs in California are governed by a combination of state and federal laws. Under these laws, school districts must provide each student with a disability with a free, appropriate public education (FAPE). FAPE means special education and related services that are provided at public expense and without charge, meet appropriate standards, include preschool through secondary education, and conform with an Individualized Education Program (IEP). [Title 20 United States Code (U.S.C.) Section (Sec.) 1401(9); Title 34, Code of Federal Regulations (C.F.R.) Sec. 300.17.] Special education must be provided in the least restrictive environment. This means that to the maximum extent appropriate, all students with disabilities should be educated with students who do not have disabilities. [34 C.F.R. Sec. 300.114.] In addition, FAPE requires that special education students are involved and make progress in the general education curriculum and toward achievement of their IEP goals. [20 U.S.C. Sec. 1414(d)(1)(A); 34 C.F.R. Sec. 300.320(a)(1).]

- (1.1) I hear a lot about federal and state laws, and federal and state regulations. What's the difference?
- (1.2) What is the definition of special education?
- (1.3) How can I get the school district to evaluate or assess my child?
- (1.4) How long will it take for the district to complete my child's assessment?
- (1.5) Can a school district conduct an assessment without my written approval?
- (1.6) What should an assessment cover?
- (1.7) What are the standards for assessment tests and tools?

- (1.8) Does the assessment have to be provided in my child's primary language?
- (1.9) Do I have the right to examine and/or get copies of my child's educational records?
- (1.10) If I do not agree with the school district's evaluation, can I get the school district to pay for an independent evaluation?
- (1.11) Can I provide the school district an independent evaluation from a qualified assessor who is not employed by the district? Does the school district have to consider the independent evaluation?
- (1.12) How often must evaluations be conducted for a student with a disability?
- (1.13) What is the assessment process for Section 504? Is it the same as the special education assessment process?
- (1.14) Who is eligible for special education under federal and state law?
- (1.15) What are the eligibility criteria for children from age three through five years of age?
- (1.16) If my child does not meet special education eligibility, is there any other way to obtain some special services to address educational problems?
- (1.17) What is the Endrew F. Supreme Court case? Why is it an important special education decision?
- (1.18) What are the key rulings in Endrew F.?
- (1.19) How do the rulings in Endrew F. affect how the school district develops my child's IEP?
- (1.20) What is an "appropriate" special education program?
- (1.21) What is an individualized education program (IEP) and how do I request one for my child?

- (1.22) What rights do I have in the IEP process?
- (1.23) How often are IEP meetings held?
- (1.24) Who is required to attend the IEP team meeting and what are the members supposed to contribute to the meeting?
- (1.25) Can I bring an advocate or attorney to an IEP meeting?
- (1.26) If I need an interpreter at the IEP meeting, must one be provided?
- (1.27) What is Prior Written Notice?
- (1.28) Must my child's IEP address her involvement in the general curriculum regardless of the nature and severity of her disability and the setting in which she is educated?
- (1.29) Do I have to sign the IEP at the IEP meeting?
- (1.30) How can supplementary aids and services help my child in the regular classroom?
- (1.31) How can my child qualify for "extended school year" services?
- (1.32) Can I tape record an IEP meeting?
- (1.33) What are related services?
- (1.34) My child needs health services in order to attend school, but the district told me it does not have to provide such services because they are "medical." Is this true?
- (1.35) Are districts responsible for providing a student with a paraprofessional (instructional aide)?
- (1.36) When can my child get psychological counseling or other mental health services as a related service?
- (1.37) My child has ongoing behavior problems. Does the district have any responsibility to address those problems?
- (1.38) What is assistive technology?
- (1.39) What is a due process hearing?

- (1.40) What is a compliance complaint?
- (1.41) What is the difference between a compliance complaint and a due process hearing?
- (1.42) Who can file a compliance complaint?
- (1.43) Is there a time limit on when I must file a compliance complaint?
- (1.44) What happens when CDE finds a district out of compliance?
- (1.45) Can I file a complaint with any other agencies?
- (1.46) Are there opportunities to resolve my complaint before an actual hearing?
- (1.47) What is a mediation conference?
- (1.48) What happens to my child's placement and services if I file for a due process hearing?
- (1.49) What rights do I have in due process?
- (1.50) Is there anything I can do to be reimbursed or compensated for the district's failure to provide FAPE to my child?
- (1.51) Are there any limitations to claiming reimbursement or compensatory education in California?
- (1.52) What does least restrictive environment (LRE) mean?
- (1.53) What supplementary aids and services are available to assist my child in the regular classroom?
- (1.54) If my child cannot benefit from the regular academic program, can she participate in other school programs?
- (1.55) Can the nature or severity of my child's disability be used to justify a segregated educational setting?
- (1.56) Do the LRE requirements apply to a preschool-age child? If my district does not offer any preschool for children without disabilities, will my child be able to integrate with any nondisabled children?

- (1.57) Under what circumstances could my child with a disability be suspended or expelled from school?
- (1.58) What is a “manifestation determination” meeting?
- (1.59) If I disagree with the recommendation of the manifestation determination IEP team to expel my child, can I challenge the recommendation?
- (1.60) Are there any circumstances under which a school can change my child’s placement immediately?
- (1.61) Must the district continue to provide special education services to my child if she is suspended for more than ten days or if she is expelled?
- (1.62) Are there any special rules governing the discipline of students identified as having a disability under Section 504 of the Rehabilitation Act of 1973?
- (1.63) What can I do if teachers or other school staff physically or emotionally abuse my child?
- (1.64) What are interagency related services?
- (1.65) Is AB 3632 the only way a California special education student can receive occupational or physical therapy?
- (1.66) Which students receive their occupational or physical therapy services from CCS?
- (1.67) Who makes decisions for a special education student whose parents’ rights have been terminated or who has no parent involved in her life?
- (1.68) I am a foster parent for a special education student. What are my rights?
- (1.70) What are transition services for students in special education?
- (1.71) What is an individual transition plan (ITP)?

- (1.72) Can a student continue to get transition services after receiving a certificate of completion?
- (1.73) What is the relationship between transition services and vocational education?
- (1.74) What is Supported Employment?
- (1.75) Does the California Department of Rehabilitation have any responsibility in assisting my child to transition from special education to post-school adult life?
- (1.76) What is the California Assessment of Student Performance and Progress (CAASPP) System?
- (1.77) What are the requirements for receiving a high school diploma in California?
- (1.78) Is there an alternative way to complete the prescribed course of study?
- (1.79) If my child meets the graduation requirements and receives a diploma, does special education eligibility end?
- (1.80) When my child reaches the age of 18, will she begin to make decisions regarding the IEP or will I continue to be the decision-maker for educational purposes?
- (1.81) If my child is not receiving a regular diploma, but will receive a certificate of achievement or completion, is she still eligible for special education?
- (1.82) If my child is receiving a certificate of achievement or completion, can she participate in the graduation ceremony and related activities?
- (1.83) Are there services for infants and toddlers with disabilities served under the federal special education law?
- (1.84) Does California have its own legislation affecting infants and

toddlers?

- (1.85) Which agencies are responsible for ensuring that services are provided to infant or toddlers?
- (1.86) What are the eligibility criteria for early intervention services (“Early Start”) in California?
- (1.87) What services are included under Part C for children from birth up until age 3?
- (1.88) Are school districts responsible for special education services for three to five- year-old children?
- (1.89) What are the eligibility criteria for children with disabilities who are three to five years old?
- (1.90) What instructional services are available to my preschool-aged child?
- (1.91) Who qualifies for special education under the “other health impairment” category?
- (1.92) Will my preschool-age child be able to participate in educational activities with nondisabled children?
- (1.93) My child has a serious illness or condition, or is recovering from an accident or surgery, that will keep him from attending school for a short time. Can he receive any special services to help him stay current with his education?
- (1.94) Who is responsible for providing individual instruction to my child while she is at home or is temporarily hospitalized?
- (1.95) My child is a special education student but must be educated at home for a while due to health issues related to her disability. The district says it will provide one hour of “home instruction” per day and no related services. Can the district do this?

- (1.96) Will I have to purchase any necessary equipment, like a computer or other technology, if my child receives home instruction?
- (1.97) If my child has a communicable disease, can the district refuse to provide a home instructor or prohibit her from attending school on the basis of a risk to staff or other children?
- (1.98) My child just needs to take her medication while at school. What assistance must the school provide to make sure this happens? Can my child administer her own medications?
- (1.99) What happens to my child's special education program if we move from one school district to another?
- (1.100) What rights do I have if English is not my first language or I do not speak any English?
- (1.101) Are my child's rights to a free, appropriate education affected if she is undocumented?
- (1.102) Do students enrolled in charter schools have special education rights?
- (1.103) If I place my child in a private or religious school does she have the right to an IEP and special education services?
- (1.104) Which public agency is responsible for providing special education services to a child who has an IEP and resides in a licensed children's institution or foster family home?