



CA Ed Code Section 56046 (a) Protects educators and other staff who assist a parent of a special education student from being intimidated, threatened, or coerced by the local education agency (LEA)

By law, the IEP Team has the power to make decisions for students with disabilities -- not district administration.

Federal Law- Individuals Disabilities Education Act IDEA

§ 300.320 Individualized Education Program

(a) The term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324

§ 300.323 Accessibility of child's IEP to teachers and others. Each public agency must ensure that (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation;

§ 300.324 Development, review, and revision of IEP. The IEP Team must consider the academic, developmental, and functional needs of the child. In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior

§300.320 Review and revision of IEPs Districts must ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate.

§ 300.327 Educational placements - Districts must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

The IDEA includes two fundamental requirements: that the child will receive a **free appropriate public education (FAPE) in the least restrictive environment (LRE):**

Least Restrictive Environment (LRE) - Each child is assured of his/her right of education with non-disabled peers to the maximum extent appropriate to the needs of both

Free Appropriate Public Education (FAPE) - Each public school system is responsible for ensuring that each child with disabilities is served appropriately, at no expense to the parent.

20 U.S.C. § 1412(5) IDEA's mainstreaming provision establishes that students with disabilities are to be educated with children who are not handicapped only "to the maximum extent appropriate."

Q and A about Teachers Rights in IEPs

Should I sign an IEP if I did not attend the meeting?

No, only sign an IEP if you attended the IEP meeting. Signing the IEP verifies that you attended the meeting

What should I do if I do not agree with IEP and I attended the IEP meeting?

When an educator does not agree with the IEP they can dissent from the IEP:

1. Verbalize to the IEP team what part of the IEP they do not agree and strongly urge for this to be recorded in the meeting notes;
2. Write the word **Dissenting** after their signature on the IEP;
3. Prepare a written report stating your objections to the proposed IEP and ask that it be attached to the proposed IEP;
4. Notify the local association president of the dissenting action

What should I do at an IEP if the student with disabilities would benefit from additional assistive technology services?

This concern should be vocalized at the IEP meeting and documented in the team meeting notes. IDEA provides for technology services as part of students' special education program. For students with significant learning, communication, sensory, cognitive, or physical disabilities, the use of technology to assist teaching and learning can make the difference between accessing genuine opportunities for literacy and higher-level academics and a school day that is limited to low level functional, redundant activities.

What should I do if the administrator has reprimanded me for information and recommendations I made at an IEP meeting?

Immediately following the reprisal, an educator should document the incident and notify their local association president. California Education Code 56046 protects educators and other service providers from retaliation, coercion, and intimidation from district administration. Often districts need to be reminded of this education code, and documentation of ongoing violations should be reported to the CDE procedural safeguards unit. If this should occur, contact your Association president immediately.

What should I do if a student with an IEP is not making progress in the educational setting and/or their behavior is having a negative impact on their learning and the learning of others in the class?

The teacher should request in writing an IEP team meeting to review and revise the IEP as necessary to ensure students' academic needs are being met. This can be done anytime there are concerns about the contents or implementation of the IEP.

How much of the IEP should the general education teachers be familiar with?

As a general educator, you are required by law to have knowledge regarding the contents of the IEP for each special education student enrolled in your classes, and you are legally obligated to implement any portions of an IEP that apply to you. To successfully meet this obligation, you should read the IEP for each special education student for whom you deliver instruction in order to fully understand the student's education condition, their instructional needs, any specific activities that have been assigned to you and your classroom, and what, if any, accommodations or modifications you should be implementing.

How can I manage accommodations, modifications, and standards?

IDEA requires general educators to implement accommodations and modifications as prescribed by the student's IEP. It is imperative that the general educator participate in the IEP team meeting in order to provide input on the selection, locations, subject areas, and frequency of the accommodations and modifications used in the general education setting.

Who makes the inclusion decisions for students' with disabilities?

Federal law requires that a full continuum of placement options be available to each special education student and that placement decisions made by the IEP team to include students in the general education classroom be based on the individual and unique needs of the student. Because of their expertise in the curriculum area in which they teach, general educators play a vital role in determining the extent to which students with disabilities can be successful in the general curriculum.

You can also send questions and concerns confidentially to a secure CDE email address speceducation@cde.ca.gov

For more information on special education go to www.cta.org/lipd

California Education Code Section 56046

56046.

(a) An employee of a local educational agency shall not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any person, including, but not limited to, a teacher, a provider of designated instruction and services, a paraprofessional, an instructional aide, a behavioral aide, a health aide, other educators or staff of the local educational agency, a private individual or entity under contract with the local educational agency, or a subordinate of the employee, for the purpose of interfering with the action of that person at any time, to assist a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil.

(b) If a person described in subdivision (a), believes an employee or agent of a local educational agency is in violation of subdivision (a) because of using or attempting to use official authority or influence, that person may file a complaint under the Uniform Complaint Procedures as set forth in Title 5 of the California Code of Regulations. If a person files a complaint pursuant to this subdivision, the state shall intervene directly and the conditions for intervention in Section 4650 of Title 5 of the California Code of Regulations are not applicable.

(c) This section does not limit or alter any right a person described in subdivision (a) may have to file a complaint pursuant to either a governing board-adopted grievance process or a collectively bargained grievance process.

(d) This section does not do any of the following:

(1) Limit or alter the right or duty of a public school official to direct or discipline an employee or contractor.

(2) Prevent a local educational agency from enforcing a law or regulation regarding conflicts of interest, incompatible activities, or the confidentiality of pupil records.

(e)

(1) For purposes of this section, "services or accommodations" includes information that would assist a parent or guardian to obtain a free appropriate public education for his or her child as guaranteed by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other services or accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as well as state laws regarding individuals with exceptional needs.

(2) For purposes of this section, "use of official authority or influence" includes promising to confer or conferring any benefit, affecting or threatening to affect any reprisal, or taking, directing others to take, recommending, processing, or approving any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action. "Use of official authority or influence" does not include good faith advocacy by an employee of a public school agency, to any person including another agency employee or contractor, regarding the services, if any, to be provided to a pupil under the laws referred to in paragraph (1).

(f) This section does not diminish the rights, privileges, or remedies of a public school employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) A school employee's or contractor's assistance offered to a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil shall not interfere with the school employee's or contractor's regular duties for the local educational agency.

California Education Code Section 48910
Teacher Suspension of Students

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.