

What is special education?

Special education programs are regulated by both federal and state law. State and federal law are the same in most cases, and a state can never limit the protections offered by federal law. But state law can provide more specific protections than federal law.

All school districts in California must provide a free appropriate public education (FAPE) to each student with a disability.

Who is eligible for special education?

Children who have one of the following disabilities and need specialized educational services have the right to receive special education and related services:

- intellectual disabilities;
- hearing impairments (including deafness);
- speech or language impairments;
- visual impairments (including blindness);
- emotional disturbance;
- orthopedic impairment;
- autism;
- traumatic brain injury;
- other health impairments;
- specific learning disabilities;
- developmental delay.

20 U.S.C. § 1401(3); 34 C.F.R. § 300.8; Cal. Educ. Code § 56026(a); 5 C.C.R. § 3030.

At what age is a student eligible for special education?

- For children between the ages of 5 and 18, age does not limit a student's eligibility for special education.
- Children younger than 5 are only eligible for special education if they have been identified by a local educational agency as needing intensive or early childhood special education.
- Students between the ages of 18 and 22 are only eligible if they have not finished high school.

Cal. Educ. Code §§ 56026(c) and 56026.1(a); 34 C.F.R. § 300.102(a)(3).

Can a medical diagnosis qualify a student for special education?

Your child may have a medical diagnosis for a disability and still not qualify for special education. A child's disability must also require instruction and/or services which cannot be provided with modification of the regular school program. Cal. Educ. Code § 56026(b); see *D.R. ex rel. Courtney R. v. Antelope Valley Union High Sch. Dist.*, 746 F. Supp. 2d 1132, 1141 (C.D. Cal. 2010) (“Though [child’s] orthopedic impairment adversely affects her education, [the child] does not meet an essential qualification for a remedy under IDEA; she cannot show a need for special education.”) .

What is the term used for a student with special education in California?

The federal law uses the term “child with a disability,” California law uses the term “individual with exceptional needs.”

What are the measures that are taken to determine the eligibility of a special education student?

When determining eligibility, many districts may evaluate whether a child’s condition negatively affects his or her educational performance. Although grades and standardized test scores may be one measure of educational performance, California requires that a child be assessed in all areas related to the suspected disability, including, if appropriate, social and emotional status. Cal. Educ. Code § 56320(f).

Districts must also consider whether the child’s needs require special education, or if they can be met with other accommodations. Under California law, if a child's needs can be adequately met through non-special educational services (for example, if modifying the regular classroom program meets the child’s needs), then the child does not qualify as an individual with exceptional needs and is not eligible for special education. Cal. Educ. Code § 56026(b).

What factors are taken into consideration when determining a student’s eligibility for special education?

In general, to qualify for special education in California, (i) the child must have one or more eligible disabilities; (ii) the disability must negatively affect her/his educational performance; and (iii) the disability must require special education and related services. See *Capistrano Unified Sch. Dist. v. Wartenberg By & Through Wartenberg*, 59 F.3d 884, 899 (9th Cir. 1995); see also Cal. Educ. Code §§ 56026(a)-(b). California law also requires that the child meets certain disability criteria and age requirements. Cal. Educ. Code §§ 56026(c)-(d).

A child is not eligible for special education if the determining factor in the child's exceptional needs is a lack of appropriate instruction in reading or math, or limited English proficiency. 20 U.S.C. § 1414(b)(5); 34 C.F.R. § 300.306(b).

A child may not be eligible for special education if his or her educational needs are primarily due to limited English proficiency, a lack of instruction in reading or math, temporary physical disabilities, social maladjustment, or environmental, cultural, or economic factors. Cal. Educ. Code § 56026(e).

Who is eligible for early childhood services?

Infants and toddlers less than 3 years old who are developmentally delayed or at risk of such delay, or who have less common disabilities (blind, deaf, or orthopedic impairments who are not eligible for regional center services) may qualify for early childhood services. Cal. Educ. Code §§ 56001(c)-(d); Cal. Gov't Code § 95014(a); 17 C.C.R. §§ 52020, 52022.

Who provides early childhood services?

California's regional centers are responsible for infants and toddlers who are developmentally delayed or at risk of delay, and local school districts have responsibility for infants and toddlers who have only a visual, hearing or severe orthopedic impairment. Cal. Gov't Code §§ 95014(b)(1)-(2); 17 C.C.R. § 52110(a); Cal. Educ. Code § 56026.5.

What type of education are children with a qualifying disability entitled to? What is a "free appropriate public education"?

Under both federal and state law, 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 for free to the student/family,
- meet appropriate standards,
- include preschool through secondary education, and
- follow an Individual Education Program (IEP).

20 U.S.C. § 1401(9); 34 C.F.R. § 300.17; Cal. Educ. Code § 56040.

Special education must be provided in the least restrictive environment (LRE). When it is appropriate, students with disabilities should be educated with students who are not disabled, instead of separating them from other students. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a); Cal. Educ. Code § 56040.1.

What is specially-designed instruction?

Special education means specially designed instruction, at no cost to the parent, to meet the unique needs of a child with disabilities. 34 C.F.R. § 300.39; Cal. Educ. Code § 56031(a).

Federal definition: Specially-designed instruction means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability and to ensure access to the general curriculum, so that s/he can meet educational standards. 34 C.F.R. § 300.39(b)(3).

California definition: In addition to the federal definition of special education, California requires that special education be provided to those students with disabilities whose educational needs cannot be met with modification of the regular instructional program. Cal. Educ. Code § 56031.

What is an appropriate educational program?

An "appropriate" educational program and placement is one that is designed to meet a student's unique needs as described in her/his individualized education program (IEP) and that allows him/her to obtain

“educational benefit.” In California, educational benefit means that the child is making progress toward achieving the goals in his/her IEP. *County of San Diego v. Cal. Special Ed. Hearing Office*, 93 F.3d 1458, 1462 (9th Cir. 1996). In addition to the IEP goals, the student should be involved in the general curriculum and making progress in it. Cal. Educ. Code § 56345(a)(4)(B).

In addition to FAPE, are there other services a child with a disability is entitled to? What are “related services”?

In addition to FAPE, school districts are required to provide free “related services”, which allow a student to benefit from her/his special education program. Cal. Educ. Code §§ 56040, 56363; 5 C.C.R. § 3051 *et seq.* In California, related services may include any of the following:

- Language and speech development and remediation;
- Audiological services;
- Orientation and mobility instruction;
- Instruction in the home or hospital;
- Adapted physical education;
- Physical and occupational therapy;
- Vision services;
- Specialized driver training instruction;
- Counseling and guidance;
- Psychological services other than assessment and development of the IEP;
- Parent counseling and training;
- Health and nursing services;
- Social worker services;
- Specially designed vocational education and career development;
- Recreation services;
- Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services;
- Interpretive services.

Cal. Educ. Code § 56363(b).

Who provides these related services?

If the other agencies do not provide a necessary related service, the school district is responsible for providing it. Cal. Gov. Code § 7575(a)(1). Under California law, some related services, including occupational and physical therapy and mental health services, are currently provided by other state agencies. See, e.g., Cal. Gov. Code § 7575(a)(1).

Who provides special education?

The *state education agency* and the *local school district* are both responsible for ensuring that appropriate special education services are provided. Services are typically provided by the school district, but may also be provided by:

- the special education local plan area (SELPA),
- county office of education,
- state school,
- certified nonpublic school, or
- other public agency.

If the school district does not provide services, the California Department of Education is ultimately responsible for providing special education services. 20 U.S.C. § 1413(g)(1); 20 U.S.C. § 1412(a)(11); 34 C.F.R. § 300.149; Cal. Educ. Code § 56300; Cal. Educ. Code § 56120 *et seq.*

Where should a child receive his/her special education and related services? What is a “least restrictive environment”?

Special education must be provided in a least restrictive environment. Whenever it is appropriate, children with disabilities must be educated with their nondisabled peers. Students with disabilities may be removed from the regular educational environment **only when** their disabilities are such that modifications, supplementary aids, and services are not sufficient in the general education environment. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a); Cal. Educ. Code § 56040.1. Specialized education can be offered in the mainstream classroom, in a resource room, at home, or in hospitals or residential programs. Special education also includes related services.

Who may decide the type of learning environment that a student needs?

Special education students should be allowed “maximum interaction with the general school population” whenever it is appropriate for both the special education student and his/her nondisabled classmates. Cal. Educ. Code § 56001(g). Special education students should also receive their education in age-appropriate environments with nondisabled peers. Cal. Dep’t of Educ., Office of Special Education, *Policy Statement on Least Restrictive Environment* (October 10, 1986). It is possible that a child’s needs cannot be adequately met in the general education classroom even with accommodations and services. In that case, the IEP team may decide that some combination of a specialized learning environment and the general classroom, or a separate setting, is necessary.

How is a child determined to be eligible for special education? Is there an assessment or evaluation?

Procedure for Parental Request

1. Parents write a letter requesting an evaluation.

- Parents may request a referral for an evaluation (also known as an assessment) for special education by writing a letter **to a child's teacher, principal or special education office**.
- If a parent calls to ask for a referral, school staff must help the parent in putting this request in writing.

2. District gives parent with assessment plan and parent's procedural rights.

- The district must give the parent a proposed assessment plan and a copy of the parent's procedural rights **within 15 days of receiving the request for evaluation**. Cal. Educ. Code § 56321(a).

3. Parents make a decision after they receive the assessment plan.

- After receiving the plan, parents have at least **15 days to decide** whether they will agree to the proposed assessment plan. Cal. Educ. Code § 56321(c)(4).

4. District completes assessment and sets up IEP meeting.

- The district then has **60 days** to complete the assessment and set up an IEP meeting. Cal. Educ. Code §§ 56302.1, 56344.

It is important to know that:

- **If the parent requests an evaluation 10 days or less before the end of the school year**, then the district must present the assessment plan within 10 days of the start of the next school year. Cal. Educ. Code § 56321(a).
- If a school district refuses to conduct an evaluation following a written referral, **the parent may request a due process hearing**. Cal. Educ. Code §§ 56501(a)(1)-(2).
- **In general, an evaluation for special education cannot occur without parental consent**. The district is required to make reasonable efforts to get written informed consent from the parent before evaluating a child. Cal. Educ. Code § 56321(c)(1). If the parent refuses, the district cannot proceed with the evaluation without first participating in and winning a due process hearing. Cal. Educ. Code §§ 56321(c)(2), 56501(a)(3), 56506(e).

Who conducts evaluations?

Evaluations are conducted by a team from different backgrounds in all areas of suspected disability. Depending on a child's needs, the evaluation may cover:

- health,
- development,
- vision,
- hearing,
- motor ability,
- language function,
- academic performance,
- cognitive ability,
- self-help,
- mobility,
- career or vocational ability and interest,
- communication, and
- social or emotional status.

One evaluation alone does not determine eligibility or educational needs. Cal. Educ. Code §§ 56320(e)-(f). Assessment tools must be valid and given by trained and qualified professionals. Tests must also be administered in the child's primary language. Cal. Educ. Code § 56320(b).

What if the parent disagrees with the proposed evaluation?

Parents have the right to a copy of the assessments. Cal. Educ. Code § 56329(a)(3). If the parent disagrees with the findings or recommendations, the parent may request an independent education evaluation (IEE). Cal. Educ. Code § 56329(b). If a parent requests an IEE, the district must either provide one at no cost or participate in a due process hearing to determine whether the assessment was legally adequate. If the district wins at this hearing, the parent still has the right to obtain an IEE, but the parent will have to pay for it. Cal. Educ. Code § 56329(c).

Once a child is identified as being eligible for special education, what are the next steps?

Once it is determined that a child is eligible for special education, an IEP is developed for that child. An IEP outlines in writing the educational program for the student. Cal. Educ. Code §§ 56032, 56345.

Who develops the IEP?

An IEP, an Individualized Education Program, is developed by the IEP team at an IEP meeting. The IEP team includes the parent (or a representative selected by the parent), a special education teacher, a regular education teacher, and a qualified representative of the school district. Other participants may include the school psychologist, therapists, service providers, and the child, if appropriate. Cal. Educ. Code § 56341(b).

The IEP must include:

- The student's present levels of academic achievement and functional performance;
- Measurable annual goals;
- A description of how the child's progress toward goals will be measured and reported;
- Specific special education and related services to be provided to the student, and any program modifications;
- The extent to which the student will not participate with nondisabled students in regular education classes as well as extracurricular and nonacademic activities;
- Anticipated duration, frequency, and location of services and modifications;
- Modifications for state or district-wide assessments and for students in grades 7 to 12, any modifications necessary for the student to meet proficiency standards for graduation;
- Type of placement needed to implement the IEP in the least restrictive environment;
- Transition services needed for students 16 years or older;
- Extended school year services if needed.

Cal. Educ. Code § 56345; 5 C.C.R. §§ 3042(b), 3043.

Is parental consent needed for the IEP?

A student with disabilities is not allowed to participate in any part of a special education program without written parental consent to the IEP. If a parent rejects part of the IEP, only those parts of the IEP to which the parent agreed will take effect. Cal. Educ. Code § 56346(e). A district may not enroll a student in special education if a parent thinks the child does not qualify. *See id.* § 56346(b). If a parent objects to part of the proposed IEP and the district believes that part necessary, the district can only implement the plan after filing for a due process hearing against the parent to implement the component and then winning the hearing. Cal. Educ. Code § 56346(f).

What happens when a student with an IEP moves from one district to another?

If a student with an IEP moves from one school district to another within the same Special Education Local Plan Area (SELPA) in California, the new district must immediately implement the terms of the IEP. Cal. Educ. Code § 56325(a)(2). A SELPA is a collection of school districts within a geographical region. If the

student moves to a district outside of the SELPA, the receiving district must either adopt the existing IEP or develop a new one within 30 days of the student's arrival. Cal. Educ. Code § 56325(a)(1).

What happens when a student with an IEP moves from another state?

If a child moves into California with an IEP from another state, the receiving school must provide that child with services equal to those in the existing IEP until the new district conducts necessary assessments and reviews relevant records. Cal. Educ. Code §§ 56325(a)(3), (b)(1).

What if a parent believes the school district is not implementing the IEP)?

If a parent believes the district has failed to implement a valid IEP, has failed to follow special education law, or is discriminating against a student or a group of students, the **parent may file a complaint directly with the California Department of Education** ("CDE"). 5 C.C.R. § 4650(a)(7). The CDE will complete an investigation within 60 days and will issue a decision no more than 60 days after completing the investigation. 5 C.C.R. §§ 4662(b), 4664. The parent can also file for a due process hearing with the district.

What options does a parent have if s/he disagrees with the proposed IEP placement or services? What are the procedures for due process?

If a parent disagrees with or objects to the proposed IEP placement or services, or if the parent believes the district has failed to comply with the child's IEP, the parent has the right to file for a due process hearing. Cal. Educ. Code §§ 56501, 56502.

Where can a parent file for a due process hearing?

Requests for due process are filed with the Office of Administrative Hearings (OAH). OAH may hear cases related to:

- a child's eligibility for special education,
- ending or proposed change to a child's placement or services,
- proposed changes in eligibility,
- proposed assessments, and
- financial responsibility for placement or services.

Cal. Educ. Code § 56501(a); *About Special Education Division*, Office of Administrative Hearings, <http://www.dgs.ca.gov/oah/SpecialEducation/AboutUs.aspx>.

What needs to be included in the request for a due process hearing?

When a parent requests a due process hearing, the petition should include:

- Identifying information (name and address of the child, and name of the school);
- A description of the problem, including facts relating to the problem; and
- A proposed outcome. Cal. Educ. Code § 56502(c).

What if the petition does not include the above information?

If the petition does not include these things, the district can file a notice of insufficiency within 15 days of receiving the complaint from the parent. Cal. Educ. Code § 56502(d)(1). Once the district submits the notice, the hearing officer has five days to decide whether the complaint is insufficient. A parent can change the complaint only if (i) the district agrees in writing and is given the opportunity to resolve the issue through a resolution session, or (ii) the hearing officer grants permission to change the complaint more than five days prior to the due process hearing. Cal. Educ. Code § 56502(e).

How long after the due process hearing may a parent receive a written decision?

The parent has the right to receive a written decision **within 45 days** after the expiration of the 30-day informal resolution period, described below, and may appeal within 90 days of the final order. Cal. Educ. Code §§ 56505(f)(3), (k); *id.* § 56501.5(c).

What happens if the district rejects a parent's petition?

If the district rejects a parent's petition for a specific placement, service, or provider, the district must provide the parent with prior written notice. Cal. Educ. Code § 56500.4(a); 20 U.S.C. 1415(b)(3). If the district does not provide written notice and the parent requests a due process hearing, the district must answer the parent's complaint within 10 days of receiving the complaint by describing why it refused the parent's request, the basis for such a refusal, other options, and reasons for the district's action or inaction. Cal. Educ. Code § 56502(d)(2).

Informal resolution meeting.

Before a due process hearing, the parent and district must participate in an informal resolution meeting unless both parties agree in writing to waive it, or agree to mediation. Cal. Educ. Code §§ 56501.5(a), (b). This resolution session must take place within 15 days of the parent's petition for a hearing. Cal. Educ. Code § 56501.5(a)(1). If the parent and the district still have not resolved the issue 30 days after the parent petitions for a hearing, they may proceed with the due process hearing. Cal. Educ. Code § 56501.5(c). This 30-day period must take place before the 45 day period to complete the due process hearing begins. Cal. Educ. Code § 56501.5(c). However, the 45-day period starts earlier if the district and parent agree to waive the resolution meeting or, if they agree that no agreement is possible after meeting or mediating. Cal. Educ. Code § 56501.5(d). A parent has the right to bring a lawyer to the resolution meeting; the district may only bring an attorney if the parent brings an attorney. Cal. Educ. Code § 56501.5(a)(3).

If the parties reach an agreement at the resolution meeting.

If the parties reach an agreement at the resolution meeting, the agreement must be put in writing. Both sides have a three-day grace period when they can cancel their agreement, but after three days, the agreement is binding and enforceable in state or federal court. Cal. Educ. Code § 56501.5(f).

What is mediation?

Mediation is a voluntary and confidential process in which a trained, objective facilitator works with both parties to reach an agreement.

Parents who waive the resolution session may still participate in mediation. A parent may file for mediation only, or for mediation plus a due process hearing. Cal. Educ. Code § 56503. Mediation is available at any time up until the hearing. If the parent and the district reach an agreement through mediation, the agreement must be put in writing. The signed, written agreement is legally binding and enforceable in state or federal court. Cal. Educ. Code § 56500.3(f). Unlike agreements reached through informal resolution, there is no grace period during which a party can cancel the written agreement reached through mediation. The time period within which a due process hearing must be held and a decision given is not paused during mediation. Cal. Educ. Code § 56501.5.

What are the parent's rights at the hearing?

- The parent must be notified of free or reduced cost legal assistance. Cal. Educ. Code § 56502(h).
- The hearing must be held at a time and place reasonably convenient for the parent. Cal. Educ. Code § 56505(b).
- A parent may request to postpone the hearing officer's decision for good cause. Cal. Educ. Code § 56505(f)(3).
- The parent has the right to have the child present at the hearing. Cal. Educ. Code § 56501(c)(1).
- The parent may request that the hearing be closed to the public. Cal. Educ. Code § 56501(c)(2); 5 C.C.R. § 3082(f).
- The hearing must be fair. This means that the hearing officer must be impartial and that the parent may bring an attorney or advocate. Cal. Educ. Code §§ 56501(b)(4), 56505(c), 56507.
- Parents may present evidence and arguments, call witnesses, and cross-examine witnesses called by the district. Cal. Educ. Code § 56505(e); 5 C.C.R. § 3082(c).

What happens to the student once a petition has been filed?

Once a petition has been filed, the student is entitled to "stay put." This means that a district must maintain or copy the child's then-current educational placement, which is typically what is in the most recent IEP. 20 U.S.C. § 1415(j); 24 C.F.R. § 300.518(a); Cal. Educ. Code § 56505(d); *Johnson ex rel. Johnson v. Special Educ. Hearing Office, State of Cal.*, 287 F.3d 1176, 1179 (9th Cir. 2002). Both the parent and the district may agree to a change in placement or services, though these may later change depending on the outcome of the hearing. Cal. Educ. Code § 56505(d). In addition, a child who is pending expulsion for certain discipline violations may be moved to a temporary alternative educational setting, though this may also change depending on the outcome of a hearing. Cal. Educ. Code § 48915.5.

Can a special education student be disciplined?

Yes. Students with disabilities may be suspended for any one of the misbehaviors on the list of prohibited activities that applies to all students in the student discipline code, even if the misbehavior is a manifestation of the child's disability. However, certain steps must take place (see below).

Who has the authority to suspend a student with a disability?

Teacher: A teacher may suspend a student for up to two days. Cal. Educ. Code § 48910(a).

Principal: A principal may suspend a student for up to five consecutive days. Cal. Educ. Code § 48911(a).

Who provides a notice of the suspension?

The district must provide written notice of the reason and duration for the suspension. Cal. Educ. Code § 48911(d).

What happens before the suspension?

Before a principal can implement a suspension, the school must hold an **informal conference** with the student to discuss the reasons for suspension, the evidence, and to permit the student to present his own evidence unless there is an emergency. Cal. Educ. Code §§ 48911(b), (c).

Manifestation determination of a disabled student.

Federal law governs most of the suspension and expulsion rules for special education students. Cal. Educ. Code § 48915.5. Students with disabilities are subject to the same suspension rules as nondisabled students, except that students with disabilities cannot be suspended for more than 10 days in a row without a manifestation determination review (see below). A special education student can be suspended for up to 10 days in a row without any requirement of a manifestation determination. 20 U.S.C. §§ 1415(k)(1)(B)-(C); *see also* 34 C.F.R. § 300.530(b). Suspensions for more than 10 school days in a row and expulsions are considered "changes of placement." Unless the student's placement is being changed because of certain behaviors such as where the student is involved with drugs, weapons or presents a danger to himself or others, a school cannot change a special education student's placement without either getting parental consent or holding a manifestation determination meeting. 34 C.F.R. § 300.536(A); 20 U.S.C. § 1415(k)(1)(G). In such circumstances, the district may place the student in a temporary alternative setting for up to 45 days. 20 U.S.C. § 1415(k).

What is a manifestation determination meeting?

A manifestation determination meeting is a meeting of the relevant members of the IEP team to determine whether a child with a disability may be expelled or have his or her placement changed for more than 10 consecutive school days because of misconduct. It must be held within 10 days of the school's decision to expel the student or change his/her placement. The team must consider two questions: (1) was the behavior caused by, or did it have a direct and substantial relationship to, the child's disability, and (2) was the behavior the direct result of the school's failure to implement the IEP? 20 U.S.C. § 1415(k)(1)(E); *see also* 34 C.F.R. § 300.530(e).

If the team answers yes to either question.

If the team answers yes to either question, the child cannot be expelled and a placement change requires either parental consent or a hearing officer's order. If the IEP team determines that the behavior is a manifestation of the child's disability, the child must return to his/her original placement, unless the parents and school agree on something else. The school must also conduct a behavioral assessment for the student or modify the student's existing behavior plan to address the behavior. 20 U.S.C. §

1415(k)(1)(F); 34 C.F.R. § 300.530(f). If the IEP team determines that the behavior is NOT a manifestation of the child's disability, the parent may request a due process hearing to appeal. The appeal should be resolved within 30 days and the child would stay in the temporary educational setting in the meantime. 20 U.S.C. §§ 1415(k)(3)-(4).

During the suspension of a student with a disability.

Students with disabilities must continue to receive educational services during: (i) a suspension longer than 10 days; (ii) a temporary placement; and (iii) expulsion. 20 U.S.C. §§ 1412(1)(A), 1415(k)(1)(D); 34 C.F.R. § 300.530(d)(1). These services must allow the child to continue to participate in the general curriculum, to continue to progress toward meeting his IEP goals, and to receive needed behavioral assessments and services. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. § 300.530(d)(1).

Behavior assessment and intervention plan for students with disabilities.

Students who demonstrate serious behavior problems must be assessed. If necessary, a behavior intervention plan should be implemented. The plan becomes part of the child's IEP; it must include its own goals and objectives and must therefore be reviewed regularly. 5 C.C.R. § 3052. A serious behavior problem is one that involves assault and behavior that causes injuries, causes serious property damage, or is severe, persistent or unable to be changed. 5 C.C.R. §§ 3001(d), (e), (aa). The behavior plan must use positive behavioral interventions which respect a student's dignity and safety. 5 C.C.R. § 3001(d).

Can parents see the school records of their special education child?

A parent has the right to inspect, review, and get a copy of all of a child's school records. Cal. Educ. Code § 49069. Most schools maintain separate cumulative files and special education files, and parents have the right to view both. The school must provide a parent with copies of a child's records within 5 days of a request, and the school cannot charge more than the actual cost of copying. Cal. Educ. Code §§ 49069, 56504.

What can a parent do if the parent believes that the school records need corrections?

Parents have the right to request correction or removal of information the parent believes to be incorrect, misleading, or a violation of privacy. Parents can file such a request with the district superintendent. Within 30 days, the superintendent must either approve or deny the request. If the superintendent denies the request, the parent has 30 days to the school board appeal. If the appeal is denied, the parent may still submit an objection in writing to the child's file. Cal. Educ. Code § 49070.