

INSTRUCTION

Individualized Education Program

The Inyo County Board of Education desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

- (cf. 0430 - Comprehensive Local Plan for Special Education)
- (cf. 1312.3 - Uniform Complaint Procedures)
- (cf. 4112.23 - Special Education Staff)
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
- (cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
- (cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)
- (cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)
- (cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
- (cf. 6164.6 - Identification and Education under Section 504)

The Superintendent or designee shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

Legal Reference:

EDUCATION CODE

- 51225.3 Requirements for high school graduation and diploma
- 56055 Rights of foster parents pertaining to foster child's education
- 56136 Guidelines for low incidence disabilities areas
- 56195.8 Adoption of policies
- 56321 Development or revision of IEP
- 56321.5 Notice to include right to electronically record
- 56340.1-56347 Instructional planning and individualized education program
- 56350-56352 IEP for visually impaired students
- 56380 IEP reviews; notice of right to request
- 56390-56392 Certificate of completion, special education
- 56500-56509 Procedural safeguards
- 60640-60649 Standardized Testing and Reporting Program
- 60850 High school exit examination, students with disabilities
- 60852.3 High school exit examination, exemption for the class of 2006

FAMILY CODE

- 6500-6502 Age of majority

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GOVERNMENT CODE

7572.5 Seriously emotionally disturbed child, expanded IEP team

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

601 Minors habitually disobedient

602 Minors violating law defined as crime

CODE OF REGULATIONS, TITLE 5

853-853.5 Standardized Testing and Reporting Program, accommodations

1215.5-1218 High School Exit Examination, accommodations for students with disabilities

3021-3029 Identification, referral and assessment

3040-3043 Instructional planning and the individualized education program

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Individuals with Disabilities Education Act

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 157 (2002)

COURT DECISIONS

Schaffer v. Weast (2005) 125 S. Ct. 528

Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072

Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers/osep>

BOARD POLICY:

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Members of the Individualized Education Program Team

The county office shall ensure that the individualized education program (IEP) team for any student with a disability includes the following members: (20 USC 1414(d)(1); 34 CFR 300.321; Education Code 56341, 56341.2, 56341.5)

1. One or both of the student's parents/guardians, and/or a representative selected by the parent/guardian
2. If the student is or may be participating in the regular education program, at least one regular education teacher.
3. At least one special education teacher or, where appropriate, at least one special education provider for the student
4. A representative of the county office who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities
 - b. Knowledgeable about the general education curriculum
 - c. Knowledgeable about the availability of county office and/or special education local plan area (SELPA) resources (cf. 0430 - Comprehensive Local Plan for Special Education)
5. An individual who can interpret the instructional implications of assessment results. This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or county office, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team. (Education Code 56341)
7. Whenever appropriate, the student with a disability.
8. For transition service participants:
 - a. The student, of any age, with a disability if the purpose of the meeting is the consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals pursuant to 34 CFR 300.320(b)

If the student does not attend the IEP team meeting, the county office shall take other steps to ensure that the student's preferences and interests are considered.
 - b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for transition services.
9. For students suspected of having a specific learning disability in accordance with 34 CFR 300.308 (formerly 300.540) and 34 CFR 300.310 (formerly 300.542), at least one individual who is qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist, or remedial reading teacher (Education Code 56341)

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In accordance with 34 CFR 300.310 (formerly 300.542), at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age. (Education Code 56341)

10. For students who have been placed in a group home by the juvenile court, a representative of the group home

If a student with a disability is identified as potentially requiring mental health services, the county office shall request the participation of the county mental health program in the IEP team meeting prior to referring the student to a county mental health agency for services. (Education Code 56331)

Upon request of the parent/guardian of a child who was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), the county office shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (20 USC 1414(d)(1)(D); 34 CFR 300.321; Education Code 56341)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the county office agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian, in writing, and the county office consents to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (20 USC 1414(d)(1)(C); 34 CFR 300.321; Education Code 56341)

11. An administrative representative of the district of residence which is legally and fiscally responsible for the special education services.

Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (34 CFR 300.322; Education Code 56341.5)

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The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (34 CFR 300.322; Education Code 56341.5)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform them of:
 - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)
 - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the **California Early Intervention Services Act (Government Code 95000-95004)**

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An Indication that the purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)
2. Indicate that the county office will invite the student to the IEP team meeting
3. Identify any other agency that will be invited to send a representative (cf. 5145.6 - Parental Notifications)

At each IEP team meeting convened by the county office, the county office administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1) (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request and before any IEP meeting. Upon receipt of an oral or written request, the county office shall provide complete copies of the records within five business days. (Education Code 56043) (cf. 5125 - Student Records)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (20 USC 1414(f); 34 CFR 300.322; Education Code 56341.5)

An IEP team meeting may be conducted without a parent/guardian in attendance if the county

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office is unable to convince the parent/guardian that he/she should attend. In such a case, the county office shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (34 CFR 300.322; Education Code 56341.5)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

Parents/guardians and the county office shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the county office gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio-recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings.
2. Request that the audio recording be amended if the parents/guardians believe they contain information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

The county office shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (34 CFR 300.322; Education Code 56345.1)

The county office shall give the parents/guardians of a student with disabilities a copy of his/her child's IEP at no cost. (34 CFR 300.322)

Parent/Guardian Consent

Before providing special education and related services, the county office shall seek to obtain informed consent pursuant to 20 USC 1414(a)(1). The county office shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the county office determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with a free appropriate public education (FAPE), a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the

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due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the district agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent, in writing, for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The county office shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the county office ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

Contents of the IEP

The IEP shall be a written statement developed, reviewed, and revised in a meeting of the IEP team. It shall include, but not be limited to, all of the following: (20 USC 1414(d)(1)(A); 34 CFR 300.320; Education Code 56043, 56345, 56345.1)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
 - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
 - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
 - c. For students with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives
2. A statement of measurable annual goals, including academic and functional goals, designed to do the following:
 - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
 - b. Meet each of the student's other educational needs that result from the his/her disability
3. A description of the manner in which the progress of the student toward meeting the annual goals described in item #2 above will be measured and when the county office

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- will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the specific special educational instruction and related services and supplementary aids and services, based on peer-reviewed research, to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
 - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in Education Code 56345(a) (cf. 3541.2 - Transportation for Students with Disabilities)
 5. An explanation of the extent, if any, to which the student will not participate with non-disabled students in the regular class and in extracurricular and other nonacademic activities described in item #4 above
 6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and county office-wide assessments

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or countywide assessment, a statement of the reason that the student cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for the student. (cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities) (cf. 6162.51 - Standardized Testing and Reporting Program) (cf. 6162.52 - High School Exit Examination)

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
 - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, pursuant to Education Code 56041.5 that will transfer to the student upon reaching age 18

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Where appropriate, the IEP shall also include: (Education Code 56345)

1. For students in grades 7-12, any alternative means and modes necessary for the student to complete the county office's prescribed course of study and to meet or exceed proficiency standards required for graduation (cf. 6146.1 - High School Graduation Requirements) (cf. 6146.11 - Alternative Credits Toward Graduation)
2. Linguistically appropriate goals, objectives, programs, and services for students whose native language is not English
3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE) (cf. 5148.2 - Before/After School Programs) (cf. 6177 - Summer School)
4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day

The IEP shall include descriptions of activities intended to:

- a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
- b. Support the transition of the student from the special education program into the regular education program
(cf. 6176 - Weekend/Saturday Classes)
(cf. 6178 - Vocational Education)
(cf. 6181 - Alternative Schools)
5. Specialized services, materials, and equipment for students with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

Development, Review, and Revision of the IEP

In developing the IEP, the IEP team shall consider all of the following: (20 USC 1414(d)(3)(A); 34 CFR 300.324; Education Code 56341.1, 56345)

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial assessment or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

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However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that a student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the IEP team must include a statement to that effect in the student's IEP. (Education Code 56341.1)

The Superintendent or designee shall ensure that the IEP team: (20 USC 1414(d)(4); 34 CFR 300.324; Education Code 56043, 56341.1, 56380)

1. Reviews the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and the appropriateness of placement
2. Revises the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate
 - b. The results of any reassessment conducted pursuant to Education Code 56381
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 305(a)(2) and Education Code 56381(b)
 - d. The student's anticipated needs
 - e. Other matters
3. Considers the special factors listed in items #5-9 above when reviewing the IEP of a student with a disability who has additional behavior or communication needs

The IEP team shall also meet: (Education Code 56343)

1. Whenever the student has received an initial formal assessment and, when desired, when the student receives any subsequent formal assessment

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2. Upon request by the student's parent/guardian or teacher to develop, review, or revise the IEP

If a participating agency other than the county office fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (20 USC 1414(d); 34 CFR 300.324; Education Code 56345.1)

As a member of the IEP team, the regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of: (20 USC 1414(d)(3)(C); 34 CFR 300.324; Education Code 56341)

1. Appropriate positive behavioral interventions and supports and other strategies for the student (cf. 6159.4 - Behavioral Interventions for Special Education Students)
2. Supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320

To the extent possible, the county office shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

The student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the county office may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the county office shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

If a student with disabilities residing in a licensed children's institution or foster family home has been placed by the county office in a nonpublic, nonsectarian school, the county office shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)(cf. 6173.1 - Education for Foster Youth)

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of all of the following: (Education Code 56043)

1. The case progress
2. The continuing need for out-of-home placement

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3. The extent of compliance with the IEP
4. Progress toward alleviating the need for out-of-home care

Timelines for the IEP and for the Provision of Services

At the beginning of each school year, the county office shall have an IEP in effect for each student with a disability within county office jurisdiction. (34 CFR 300.323; Education Code 56344)

The county office shall ensure that a meeting to develop an initial IEP is conducted within 30 days of a determination that a student needs special education and related services. The county office shall also ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (34 CFR 300.323; Education Code 56344)

An IEP required as a result of an assessment of the student shall be developed within 60 days (not counting days between the student's regular school sessions, terms or days of school vacation in excess of five school days) from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56344)

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year for a student for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of school vacations, the 60-day time limit shall recommence on the date that student's school days reconvene. (Education Code 56344)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the county office shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a special education student by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

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The county office shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The county office shall also ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

Transfer Students

To facilitate the transition of a student with a disability who is transferring into a county-office program, the county office shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into a county-office program from another school district within the same SELPA during the school year, the county office shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the county office agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

ADMINISTRATIVE REGULATION:

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