Santa Barbara
SCHOOL
DISTRICTS

Frequently Asked Questions

# Special Education

720 Santa Barbara Street / Santa Barbara, CA 93101 / (805) 963-4338 / www.sbsdk12.org

## Frequently Asked Questions

### Q. What is special education?

A. Special education is instruction that is specially designed to meet the unique needs of students who have disabilities. Special education and related services can include special instruction in the classroom, at home, in hospitals or institutions, or in other settings. The definition of special education comes from IDEA, the Individuals with Disabilities Education Act. This law gives eligible students with disabilities the right to receive special instruction and services that are specially designed to:

- meet their unique needs (that result from having a disability);
- help them learn the information and skills that other students are learning in the general education curriculum.

### Q. Who is eligible for special education?

A. Students with disabilities, who need special education and related services, are found eligible when they meet the IDEA definition of a "child with a disability" in combination with state law and regulations. There are 13 different disability categories under which a student may be found eligible for special education and related services. These categories are listed below.

| | |
|---|---|
| Autism | Other health impairment |
| Deafness | Emotional disturbance |
| Deaf-blindness | Specific learning disability |
| Hearing impairment | Speech or language impairment |
| Mental retardation | Traumatic brain injury |
| Orthopedic impairment | Visual impairment, including blindness |
| Multiple disabilities | |

### Q. How is a student determined to be eligible for special education?

A. The decision about the student's eligibility for special education services is based on whether he or she has one or more disabilities that fit into the13 disability categories listed above and meets any additional state or local criteria for eligibility. This decision will be made when the evaluation has been completed, and the results are available.

Parents are part of the individualized education program (IEP) team who decide a child's eligibility for special education. The IEP team will look at all of the information gathered during the assessment and decide if the student meets the definition of a "child with a disability." If so, the student will be eligible for special education and related services. If the student is found eligible, the parent and school will work together to design an IEP for the child. An IEP is a written document that describes the educational program designed to meet a child's individual needs. Every student who receives special education must have an IEP.

On the other hand, the school may choose not to evaluate a student for special education eligibility upon request by a parent or persons acting on behalf of the student. If the school refuses to evaluate the student, the parent or other party must be notified of this decision in writing, as well as why the request was refused. This is called giving "prior written notice" (PWN). If there is disagreement with the school's decision not to

assess, the parent or person is encouraged to contact the district special education director to find out about the child's procedural rights.

**Q. What happens if the student is not found eligible for special education?**

A. The IEP team reviews the assessment results and determines whether or not the student is eligible for special education programs and related services. If it is determined that the student is not eligible, and the parent disagrees with this decision, the district must provide information to the parent as to what the parent can do under IDEA.

**Q. What happens if a student is found eligible for special education, but the parent does not agree?**

A. If a student is found eligible for special education and related services and the parent disagrees with that decision, or if the parent does not want his/her child to receive special education and related services, the parent has the right to decline those services. The school may provide the student with special education and related services only with parent consent.

**Q. What help is available if a student is having learning or other problems in school?**

A. If a student is having a difficult time with learning or parents have observed other problems related to their child's educational performance, parents or educators should contact the principal or assistant principal of their child's school and describe the concerns about their child's educational performance. It may be appropriate to have a student study team (SST) meeting, with the parent as an important member. The purpose of a SST meeting is to review the student's strengths, needs, and possible interventions. Typically, prior to referring a student for special education assessment, the school is required to consider resources of the general education program.

However, if the school thinks that a student may have a disability or disabilities, then the school must evaluate that student for special education eligibility at no cost to the family. The school must ask parent permission and receive written consent before it may evaluate the student. Once that consent is obtained, the evaluation must be conducted within 60 days.

**Q. Does the school need parent consent to implement the IEP?**

A. Yes. The school must obtain informed written consent from the parent before the initial provision of special education and related services to their child and must make reasonable efforts to obtain that consent. If parents do not respond to the request for consent for the initial provision of special education and related services, or refuse to give consent, the district may not override the lack of consent and implement the IEP and may not provide special education services to the student.

**Q. May a parent cancel special education and related services for his or her child or revoke consent after initially giving it?**

A. Yes. A parent may cancel special education and related services or revoke consent for the continued provision of special education and related services. Once consent is revoked by the parent, the district may no longer provide special education and related services to the student. This is considered a "revocation" of services. It is important to note, however, that if a parent declines or cancels special education for his or her child and later decides to reverse this decision, the evaluation process must start all over.

**Q. Can a student's IEP be changed?**

A. Yes. At least once a year a meeting must be scheduled to review the student's progress and develop an annual IEP. However, the parent does not have to wait for an annual review. The parent (or any other team member) may ask to have the student's IEP reviewed at any time. This would allow the parent and school to review the student's educational program and change it as necessary. Upon request for an IEP, the team will have 30 days to convene the meeting.

**Q. Can the IEP be changed without holding an IEP meeting?**

A. Yes. If the parent and school want to change the student's IEP after the annual IEP meeting, both parties may agree not to convene an IEP meeting. Instead, the parent and school will develop a written document that will amend the student's IEP. If IEP is changed, all IEP team members will be informed of the changes. Upon request, the school must give the parent a copy of the revised IEP.

**Q. Does the IEP meeting have to be in person?**

A. No. when holding an IEP meeting, the parent and school may agree to use other means of participation. For example, some members may participate by conference call.

**Q. May a team member be excused from attending an IEP meeting?**

A. Yes. Under certain circumstances and only with the consent of both the parent and school (prior to the meeting). If the member's area of the curriculum or related service is not going to be discussed or modified at the meeting, then he or she may be excused if the parent and school agree in writing. A member whose area of expertise is going to be discussed or changed at the meeting may be excused under two conditions:

- Parent (in writing) and school agree to excuse the member; and,
- Excused member gives written input about developing the IEP to the parent and the team before the meeting.

**Q. Can a student be placed in the special education program without parent permission?**

A. No.

**Q. If a student is eligible for special education services, would he or she participate in general education school programs?**

A. It depends on each student's individual needs. Students receiving special education services and related services are educated in the least restrictive environment (LRE). LRE is that placement or program that can meet the individual student's needs and does so with a minimum loss of contact with general education class programs and peers. Students on public school campuses are integrated with general education students during the school day and other school sponsored activities. This may include participation in recess and lunch, non-academic activities or classes, or inclusion in many or all of the academic portions of the school day. All placements must be described fully in the IEP.

**Q. Are there any individuals for whom advance written notice must be given to the school in order for them to be at an IEP?**

A. Yes. If the parent chooses to bring an attorney to an IEP without giving the school advance notice, the school may elect to reschedule the meeting. It is common practice when there is legal representation on one side for the other side to seek the same representation.

**Q. Could an IEP be scheduled via an email?**

A. Parents can correspond with the school via email if IEP dates need to be changed or confirmed. The school could send out the notification via regular mail or email if this is acceptable to he parent.

**Q. Does a teacher, therapist, or coordinator have the authority to extend time for therapy (e.g., speech) during an IEP?**

A. It is required that the decision is made based on student need, typically based on assessment and agreement from the IEP team.

**Q. What is a parent's role in special education?**

A. Parents and educators are equal partners in planning for the special needs of each child. Parents participate in decision making which includes initial assessment, planning, placement, and continuing program reviews and evaluations.

**Q. What if a parent speaks a language other than English?**

A. At any meeting a parent attends for which he/she needs an interpreter; the parent must notify the school special education department in advance, preferably in writing. The school must provide an interpreter if requested.

**Q. Must the IEP include all services and modification needed by the student?**

A. Yes. The IEP must include all services, including the duration and frequency of all related service sessions or designated instruction and services (DIS). Modifications/accommodations, such as those necessary to include the student in the general education classroom (special seating, large print, etc.), must be included in the IEP document. If it is not in a student's IEP, the student does not have those services and/or modifications.

**Q. What if the student's behavior affects his or her learning or that of others?**

A. The IEP team must consider strategies, including positive behavioral interventions and supports, to address that behavior. A student who demonstrates serious behavioral problems, for which instructional behavioral approaches specified in his/her IEP are found to be ineffective, must receive a functional analysis assessment. The positive behavior intervention plan has its own set of goals and objectives related to reducing inappropriate school behaviors and substituting appropriate behaviors.

**Q. Do parents have to sign the IEP document at the time of the meeting?**

A. It is a goal to complete the IEP document at the meeting which includes parent signature. However, parents may choose to take the IEP home to review it further. If this is the case, then the parent should sign the section "in attendance only" at the IEP meeting. After taking more time to study the IEP document and being in agreement, then the parent should sign the IEP and return it promptly. Parents will receive a copy of the entire IEP document that is created at the meeting including the notes page.

If there is still disagreement, questions or clarification needed, the parent should call the student's case carrier or the school administrator who attended the IEP. If the questions and/or concerns cannot be addressed at the school site level, the special education director at the district office should be contacted. Parent rights allow many different ways to resolve disagreements. The district is required to tell parents what those ways are and how to use them.

**Q. What happens if the parent does not agree with part or all of the IEP?**

A. If the student already has an IEP in place, and the parent disagrees with the new IEP, the old IEP will remain in effect. If only part of the new IEP is not agreed to, that part will not go into effect until the issue is resolved. There is place on the IEP document under consent where the parent can state the part of the IEP to which he/she does not agree.

**Q. May IEP meetings be tape recorded?**

A. Parents may tape record the meeting if they notify other members of the IEP team in writing at least 24 hours prior to the meeting. The school may also tape record the IEP meeting if it notifies the parent 24 hours prior to the meeting. However, if the parent objects, then the meeting will not be recorded.

**Q. What should be done if a parent or educator thinks a student needs a change in services?**

A. Parents or educators may make a request in writing to the case manager for an IEP team meeting to discuss concerns. They may also wish to provide documentation (test results, example of class work, etc.) to substantiate the request. This may be done as often as the parent or school believes is necessary. If additional meetings are requested to amend the IEP, the school must hold the meeting within 30 days of the written request (not including school holidays). An existing IEP may also be amended (for services not placement decisions) without holding a full IEP meeting.

**Q. Does a student identified eligible for special education have the right to participate in nonacademic and extracurricular activities offered at his school?**

A. Yes. Special education students have the right to participate in all activities at school, including field trips and camps with the support that is stated in the IEP.

**Q. What happens if a special education student does not pass the California High School Exit Examination (CAHSEE)?**

A. Starting with the 2009-2010 school year, an eligible student with a disability is not required to pass the high school exit exam as a condition of receiving a diploma of graduation. This exemption shall last until the state board makes a determination that the alternative means a student with disabilities may demonstrate the same level of academic achievement on those content standards required for passage of the high school exit exam. This includes all students with an IEP or 504 plan. The student will still have to take the exam in the 10$^{th}$ grade to satisfy the requirement of federal law (No Child Left Behind). It is recommended that the student also take the high school exit exam in the 11$^{th}$ and 12$^{th}$ grades so he/she is eligible to take the "alternate" exam when it is ready.

**Q. Can a parent or family member volunteer at his/her child's school?**

A. Yes, all school sites have volunteer opportunities. Whether or not the child's teacher has volunteer opportunities is up to that teacher, regardless of whether the classroom is general education or special education. The Santa Barbara School Districts have a volunteer policy. Parents or family members who would like to volunteer can speak with the teacher or the administrator of the school. The school's PTA (Parent Teacher Association) or PTO (Parent Teacher Organization) can help with this process.

**Q. What is a Special Education Local Plan Area (SELPA)?**

A. School districts and county school offices form regional groupings of districts and county office to ensure that special education services are provided to all eligible special education students. Our SELPA is called the Santa Barbara County SELPA and includes 22 school districts, one charter school, and the Santa Barbara County Office of Education.

**Q. What is a special education complaint process or due process?**

A. A complaint alleges that there has been a failure to implement a federal or state special education law or regulation by a public education agency. For example, if a student is not receiving services listed on his or her IEP, this could be considered a complaint. Parents, school staff, and other interested parties may file a complaint on behalf of the student. Site administrators and special education staff can assist in filing the complaint with the California Department of Education. However, in most circumstances, the complaint may be resolved at the local level by contacting the student's teacher, principal, or special education director.

Due process, on the other hand, is a procedure to use when there is a significant disagreement between parents and the education agency regarding assessment, identification, or placement of a student.

For further information, please contact the districts' Special Education Office at (805) 963-4338, extension 252.