

Frequently Asked Questions Relating to IEP Disputes

1. May a parent refuse an initial assessment for possible special education Eligibility?

A parent may refuse an initial assessment. However, if the District feels that it is important to assess the student, the District may file for a due process hearing in order to obtain an order authorizing the District to assess without parent consent. If a parent of a student at your school site is refusing to consent to an assessment, call the District's Due Process Department to discuss the possibility of filing for a due process hearing. (Note: If a student is unilaterally placed by their parents at a private school or if they are home-schooled the District cannot override the lack of parent consent).

2. May a parent refuse the initial provision of special education services?

Yes. If a student's parent refuses to accept the District's initial offer of special education services, the student will remain in the regular education program and the District cannot file for due process to override the lack of consent. If this happens at your school site you should document in a letter to the parent that the District had developed an IEP for the student but cannot implement it because of the parents' lack of consent i.e., did not sign IEP?

3. What do I do when the parent will not sign an on-going IEP in disagreement or agreement?

You should: (1) make at least three attempts to obtain the parents' signature following the IEP team meeting, using phone calls, letters, home visits, and/or in person meetings at the school site; (2) document your attempts to obtain a signature in phone call logs, letters, conferences and conversation; (3) maintain a copy of all responses from the parent; (4) continue to implement the last agreed upon and implemented IEP; and (5) contact the Due Process Department to discuss the possibility of filing for due process.

4. When there is a due process case pending is the school site required to hold the annual or tri-annual IEP team meeting?

Yes. Follow the required timelines for holding IEP team meetings. We also recommend that you call the due process specialist that is working on the case before convening the IEP team meeting to discuss possible resolutions of parent concerns.

5. May parents record an IEP team meeting on an audiotape or with a video recording device?

Parents can record an IEP team meeting on audiotape if they give the school notice of their intent to record no later than 24 hours before the IEP team meeting. Likewise, the school may record the IEP team meeting if they give the parents notice at least 24 hours before the meeting. If the school initiates the notice of intent to record (i.e., the parent did not give notice first) and the parent objects to taping the meeting, then the school cannot tape the meeting. We recommend that if your school site receives a tape-recording notice from parents; you provide the parents with a notice and also tape record the meeting. There is no provision in California special education law granting parents or the District the right to video tape an IEP meeting.

6. What does the school site administrator or designee do when a parent disagrees with an IEP?

When parents disagree with their child's IEP, document the parents' disagreement on p. 10 of the IEP. Parents may disagree with the entire document or they may choose to agree to specific parts and services of the IEP and have them implemented. The school site administrator or designee should then review with the parents the options for seeking a resolution of their IEP dispute. These options are described in Reference Guide 1410.3, October 2006. After the parents select a dispute resolution process make sure that the choice is marked on the IEP by checking the informal meeting box or due process box on p. 10 of the IEP. Then proceed with the relevant steps for the selected process as set forth in Reference Guide 1410.2.

7. What do you do when a parent asks to have their child removed from special education services?

If a comprehensive assessment has not recently been done it is important to first assess the student. After the assessments are completed, convene an IEP team meeting to discuss student's progress, goals and continued need for special education and related services. If the IEP team recommends that the student continue to receive special education and related services, the parents may disagree with the IEP initiate one of the dispute resolution processes. The student will remain in special education until the dispute is resolved. If the IEP team determines that the student no longer needs or is eligible for special education and related services, document the decision on the IEP and if the parent consents to the IEP, exit the student from special education.

Acceptance of a letter requesting termination of special education services is not sufficient to exit a child from special education.

8. What should a school site do when a parent provides a copy of a private assessment or independent educational evaluation ("IEE")?

Upon receiving a private assessment report, the school site administrator should schedule an IEP to review the results of the report (or if an IEP team meeting has already been scheduled put the assessment report on the agenda for discussion at the meeting). The professional who conducted the assessment should be invited to attend as well as District

staff qualified to interpret the results of the assessment (e.g., a school psychologist for a psycho educational assessment, LAS provider for LAS assessment, OT provider for OT assessment, etc.). The school site administrator should provide copies of the private assessment report to the relevant District staff for their review prior to the meeting. District staff should summarize the report on page 12 of the IEP. In addition, the IEP team should consider and discuss the report, and make changes to the student's IEP if necessary to meet the student's unique educational needs.

9. What is compensatory education?

Compensatory education may be offered or ordered if the District denies a student a free appropriate public education (FAPE). If an IEP team, due process specialist or hearing officer determines that the student has not received services as written into the student's IEP, or that the District failed to provide an adequate program which resulted in a loss of educational opportunity for the child, compensatory education may be offered. Compensatory education may include extended school-year services, additional therapy sessions, or other remedial measures in response to a student's identified needs. Compensatory education is intended to be a one time offer to compensate for past failures to adequately serve the student and is not meant to provide ongoing services for future IEPs.

10. What does "stay put" mean?

When a parent disagrees with an IEP and files for due process, the student is to continue to receive the placement and services in the last agreed upon and implemented IEP during the due process proceedings. This is commonly known as "stay put." If the parent disagrees with any portion of the IEP, the District may implement the agreed upon portions of the IEP. Stay put may apply for the disputed portions of the IEP depending on the facts of the case. Contact the Due Process Department if a situation arises where you are unclear as to what would be stay put.