



Learning Objectives

By the end of this training, you will be able to:

- 1) Enumerate the basic rights of disabled K-12 students under the Individuals with Disabilities Education Act
- 2) Describe the education rights of the 0-3 population of students who require early intervention under the IDEA and articulate strategies for appropriate intervention
- 3) Recognize the particular needs of court-involved youth who are also students with disabilities and acquire strategies to provide legal representation to students who are involved in multiple systems



Why Is Education Advocacy Important?



Foster Youth Face Special Challenges:

- Prenatal care and nutrition
- Fetal alcohol syndrome
- Disability
- Trauma
- Moving around
- Changing schools
- Aging out



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The Statistics



75% of state prison inmates did not graduate from high school.

68% of foster children have a disability; however only **36%** receive appropriate special education services.

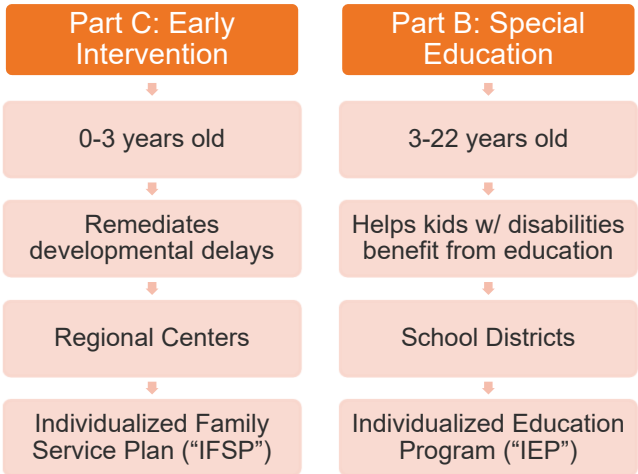
Nearly **30%** of foster children will “cross over” into the juvenile delinquency system.

66% of cross-over youth in Los Angeles have a mental health problem.

87% of youth in the juvenile justice system have learning disabilities.



Individuals w/ Disabilities Education Act (IDEA)



Who Makes Education Decisions?

- Education Rights Holders (“ERH”)
 - See 20 U.S.C. § 1436; Cal. Educ. Code §§ 48432.3, 48432.5, 48853.5, 51225.1, 56028, 56321, 56346; Cal. Gov’t Code § 95020; Cal. Welf. & Inst. Code §§ 319(g), 361, 726, Cal. Rules Ct. 5.649, 5.650, 5.651.
- What can an ERH do?
 - Request records
 - Request assessments
 - Make decisions about:
 - enrollment
 - graduation options
 - special education
 - school discipline
 - IFSP/IEP services



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Education Rights Holders

Who automatically holds education rights?

- Biological parents
- Adoptive parents
- Legal Guardians
- Prospective Adoptive Parents (after parental rights have been terminated)
- Youth over 18 years old

Education Rights Holders

Who else should be considered?

- Relatives
- Non related extended family members
- Caregivers
- Mentors
- CASAs
- Community Volunteers



Education Rights Holders

Who cannot hold education/developmental rights?

- Social worker
- Probation officer
- Group home staff
- Therapist
- Attorney
- School or regional center staff



Addressing Education Rights at Hearings

Pay Particular Attention When:

- Parental rights are being limited (e.g., bio parents whereabouts are unknown, deceased, incarcerated, unreachable)
- ERH is a previous foster parent
- Child is moving out of the home of an ERH
- Child lives in a group home
- Child crosses over from 300 to 602 jurisdiction

Early Intervention



Why Is Early Intervention Important?

- Brain develops rapidly between 0-3, so early intervention is especially effective
- Early intervention services can alleviate need for special education & mitigate impact of early trauma



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What is Early Intervention?

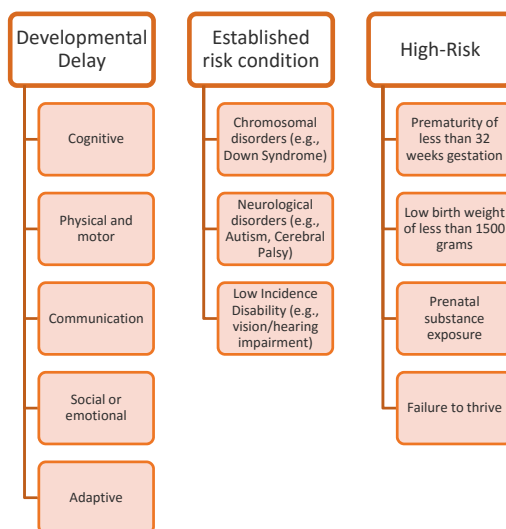
- Under the Individuals with Disabilities Education Act (IDEA), a child with a significant developmental delay, or at risk of developing one, has a right to early intervention services
- In California, called "Early Start" Program; administered by Department of Developmental Services ("DDS") and Regional Centers (Cal. Gov't Code § 95000 et seq.)
- Early intervention services must be individualized to meet a child's unique needs, & child's plan is described in his or her Individualized Family Service Plan ("IFSP")
- Theory → serving children earlier reduces delays, prepares children for school either without the need for special education, or requiring fewer special education services

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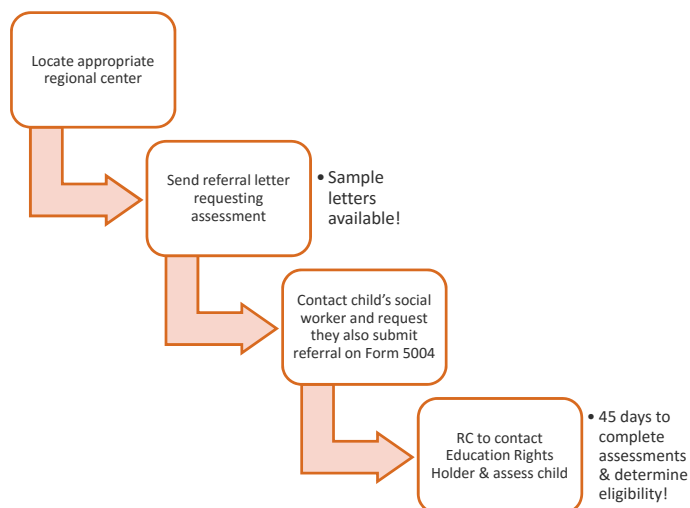
Early Intervention Services

Family Training/ Counseling	Special instruction	Speech and Language Therapy	Audiology
Occupational Therapy	Physical Therapy	Psychological Services	Infant Development Program
Transportation	Assistive Technology	Health Services (if needed to benefit from other services)	Vision services
Nursing Services	Nutrition Services	Social Work	Service Coordination

Who Qualifies for Early Start Services?



Early Start Referral Process

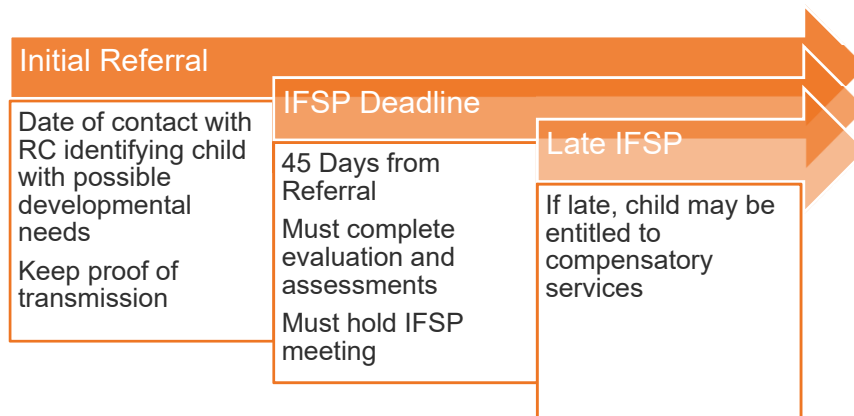


Identifying Delays

- Not reaching developmental milestones
- Diagnosed disabilities: Cerebral Palsy, Down Syndrome, Autism
- Presence of 2 or more risk factors (e.g., prematurity, prenatal substance exposure)



Early Start Referral Timeline



What Is an Individualized Family Service Plan (IFSP)?

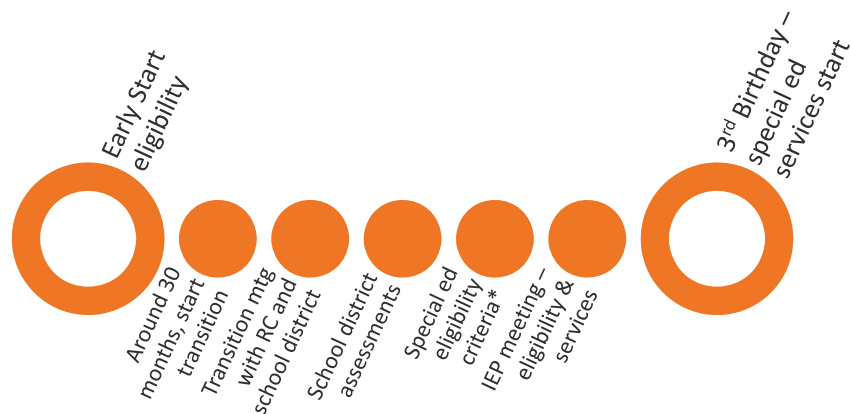
IFSP	IFSP Team	ERH Rights
<ul style="list-style-type: none"> • Contract between client and the regional center • For children 0-3 • Must list all of the services and supports • Must be reviewed every 6 months • Must be signed by ERH 	<ul style="list-style-type: none"> • ERH • RC Service Coordinator • Service providers/ evaluators/ assessors • Optional members: <ul style="list-style-type: none"> • CASA Volunteer • Social Worker • Attorneys/ advocates 	<ul style="list-style-type: none"> • Can request an IFSP at any time • Must be held within 30 days of request • Held in places and at times "reasonably convenient" for ERH • Translated to language of ERH's choice, unless not feasible

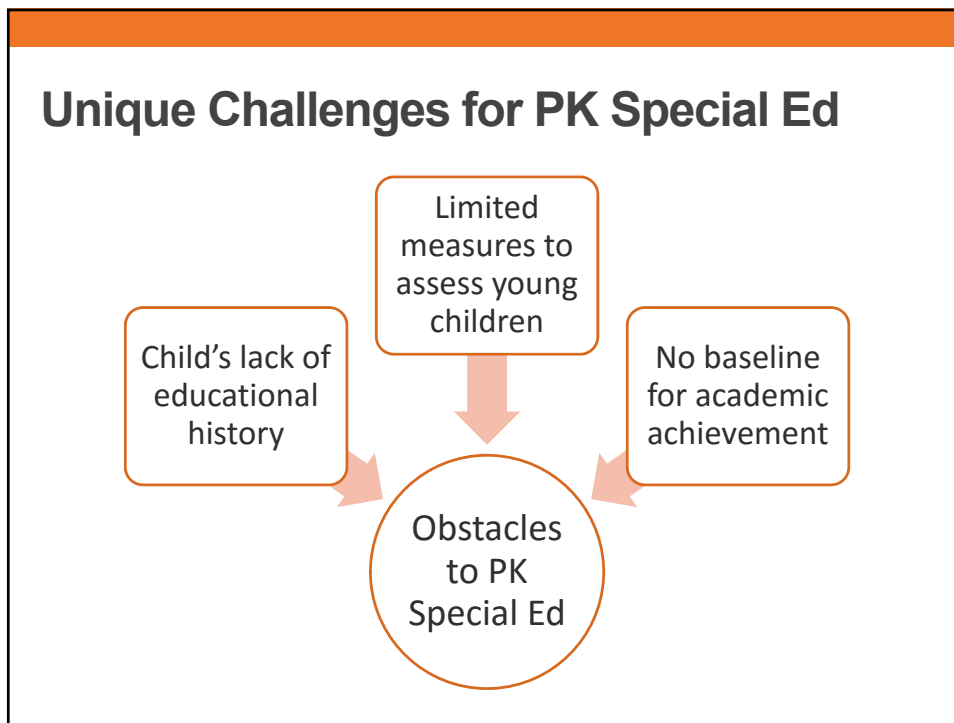
What must an IFSP include?

IFSP
Components

- Present Levels of Performance (child's strengths & weaknesses/ needs in each developmental area)
- Developmental Outcomes (goals for the next 6 months in each area of need)
- Services (Duration, Frequency, Location, Funding Source, and Projected Start Date)
- Transition plan for educational services after age 3

Transition to PK Special Education





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Special Education

Cal. Educ. Code §§ 56021.1, 56043, 56055, 56341, 56342.5.
For more, see [Alliance for Children's Rights Education Manual](#)

What is Special Education?

- Under the Individuals with Disabilities Education Act (IDEA), a child with a disability has a right to special education and related services. The disability must prevent the child from benefiting from their education. *20 U.S.C. §1400, et seq., Cal Educ. Code § 56026.*
- Special education must be individualized to meet a child's unique needs. A child's program is described in his or her Individualized Education Program ("IEP"). *Cal. Educ. Code § 56031.*
- A child has a right to a free, *appropriate* public education ("FAPE"). *Cal. Educ. Code § 56026.*
- Eligibility can start as young as 3-years old, and last through either receiving a high school diploma, or the semester after a child turns 22-years old. *Cal. Educ. Code § 56026.*



What is Special Education?



- Defining an "appropriate" education:
 - Rowley (1982): "...reasonably calculated to enable the child to receive educational benefits." *Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).*
 - Andrew F. (2017): "IDEA demands more' than 'merely more than de minimus progress from year to year...it requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Andrew F. v. Douglas County School District (Decided March 22, 2017).*



Education Warning Signs

Consider referring a student for a special education assessment if s/he has:

- Poor grades or attendance
- Problems with memory or attention
- Difficulty with classroom activities such as writing, reading or doing math
- Behavior problems, such as acting out when frustrated or being defiant
- Social or emotional problems

To identify signs, request records.

Assessments

- The standard for assessing is a suspected area of disability. This is a very low standard. *Cal. Educ. Code § 56301, 56320*
- Anyone can refer a child for a special education assessment. *Cal. Educ. Code § 56029,*
- The school has 15 calendar days to respond in writing. *Cal. Educ. Code §§ 56043(a), 56321.*
- **Assessment Plan:**
 - The Assessment Plan must include all assessments requested. *Cal. Educ. Code § 56321*
 - Only the ERH can consent to the special education assessments.
 - The ERH has 15 calendar days to review, sign and return the Assessment Plan. *Cal. Educ. Code § 56043(b).*
 - The school has 60 calendar days from the date the signed assessment plan was received to complete the assessments and hold an IEP meeting. *Cal. Educ. Code § 56043(c).*
- **Written Refusal Letter:** If the school refuses to assess, it must identify which assessment(s) are being denied, why the assessment(s) are being denied, and what interventions will be used in lieu of conducting the assessments

Who should attend IEP meetings?



Required Members

- Education Right Holder
- General Education Teacher
- Special Education Teacher
- Administrative Designee
- Any person who has assessed the child or who provides services, if those services are being discussed

Optional Members

- Parent or current caregiver (if not ERH)
- School Psychologist
- Social Worker
- Other school personnel who provide services or complete an assessment (e.g. speech and language pathologist)

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Eligibility

Categories

- Developmental Delay (DD)
- Deaf/Hard of Hearing (DHH)
- Specific Learning Disability (SLD)
- Visual Impairment (VI)
- Traumatic Brain Injury (TBI)
- Orthopedic Impairment (OI)
- Speech and Language Impairment (SLI)
- Autistic-Like Characteristics (AUT)
- Mental Retardation (MR)
- Other Health Impairment (OHI)
- Multiple Disabilities (MD)

Basics

- Only one category needs to be present in order to be found eligible for the special education program
- The eligibility category does not limit the student to any specific placement, service or therapy
- See Handout 4: Eligibility Checklist for more details

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What happens at the IEP meeting?

- The Written IEP includes 5 main components:
 - Statement of Eligibility
 - Present Level's of Performance
 - Annual Goal's and Objectives
 - Statement of Services
 - Statement of Placement



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Present Levels of Performance and Annual Goals & Objectives

- PLOP: Indicates how the child is currently doing in all areas where they are having problems
- G&O: Indicates what the IEP team will work on for the next year to help the child perform better in school.
- Both must be Understandable, Measurable, Specific and Comprehensive
- Example:
 - Billy is having trouble communicating. **vs.** Billy has limited expressive vocabulary & is not able to express his feelings with words.
 - Billy will use more words to express himself. **vs.** Billy will use 2 to 3 word phrases to communicate his needs and feelings 80% of the t'

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Placement Options



- General Education
- Resource Specialist Program (RSP)-academic supports
 - Collaboration (RSP teacher works with gen ed teacher to meet needs)
 - Push-In (RSP teacher goes into gen ed class to provide academic support)
 - Pull-Out (child comes out of gen ed class for academic support)
- Special Day Class (SDC)-smaller class; special ed teacher; moves slower
- Non-Public School (NPS)-therapeutic placement designed for kids with the most intense emotional and behavioral needs
- Residential Placement – locked therapeutic facility

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Services

- Speech and language therapy: Helps children develop expressive and receptive language skills and improve their articulation (how words are pronounced).
- Occupational therapy: Helps children improve fine motor and visual motor skills necessary for writing, drawing, copying and cutting. Also addresses sensory processing delays.
- Adapted physical education: Helps children who have difficulty with motor skills to be able to participate in PE.
- Physical therapy: Helps children with physical limitations access their school environment.
- Psychological (DIS) counseling, ERMHS, or behavioral support services: Helps children develop social and emotional coping skills and improve their behavior.
- Transportation: for kids who need to go to a school other than their home school
- Extended School Year Services: special education summer school

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IEP Consent

- Remember the IEP is a contract.
- Agree or disagree with it all or certain portions
- Make sure that any disagreement is noted in writing somewhere in the IEP.



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Monitoring Youth with IEPs At Each Hearing

Continue to look for:

- Poor grades or standardized test scores
- Attendance problems
- Social/emotional/behavioral/attention deficits

Consider:

- Helping the E/D RH find an education advocate/attorney
- Requesting a new assessment

Foster Youth Education Toolkit

Provides:

- Overview of legal rights
- Best practices for school districts
- Editable tools

Main Toolkit: School Districts

Court Companion: Social Workers, Probation Officers, Judges, Attorneys for Youth and Parents, and Education Rights Holders

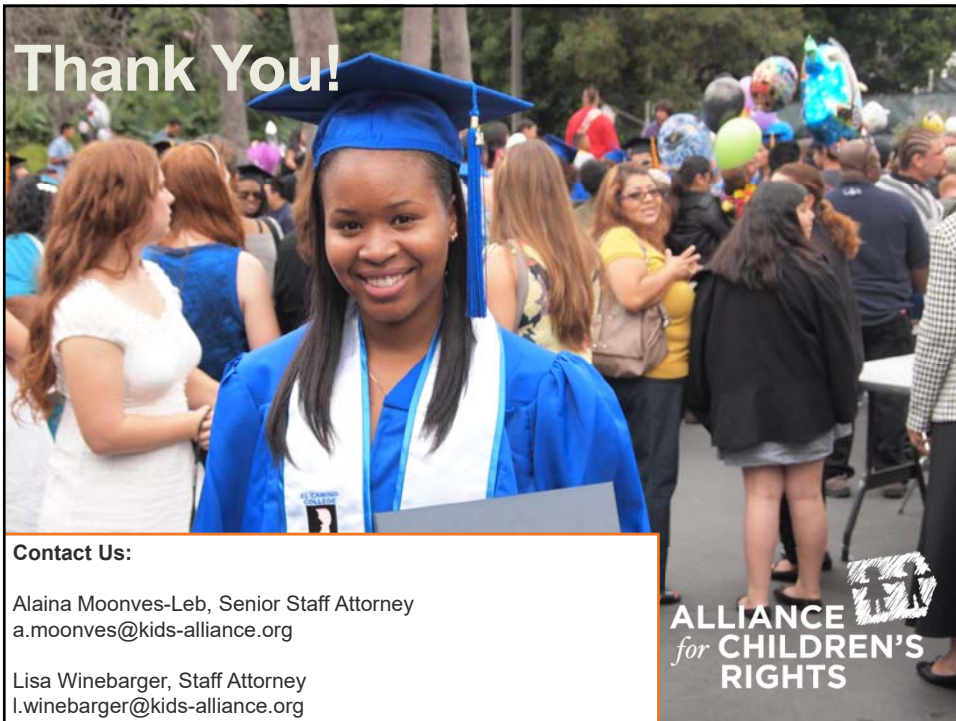
Available at: www.kids-alliance.org/edtoolkit



Return to Learning Objectives

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Thank You!

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