



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



4

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.



Addressing the Needs of Children Through a Trauma-Informed Lens

What is Trauma?

Trauma is an umbrella term used to describe the inability of an individual or a community to respond in a healthy way physically, emotionally, and mentally to acute or chronic stress.

Washington State Office of Superintendent of Public Instruction (OSPI), Compassionate Schools (2009)

kids-alliance.org ALLIANCE for CHILDREN'S RIGHTS

ACEs = ADVERSE CHILDHOOD EXPERIENCES

The three types of ACEs include

ABUSE	NEGLECT	HOUSEHOLD DYSFUNCTION	
 Physical	 Physical	 Mental Illness	 Incarcerated Relative
 Emotional	 Emotional	 Mother treated violently	 Substance Abuse
 Sexual		 Divorce	

Image: <http://www.rwjf.org/en/library/infographics/the-truth-about-aces.html>

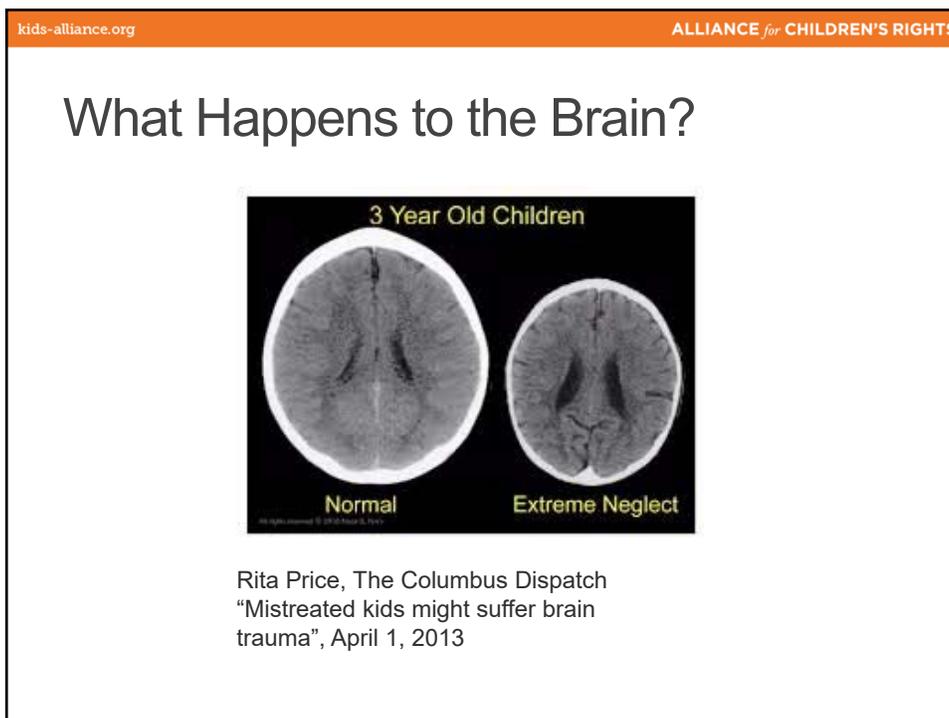
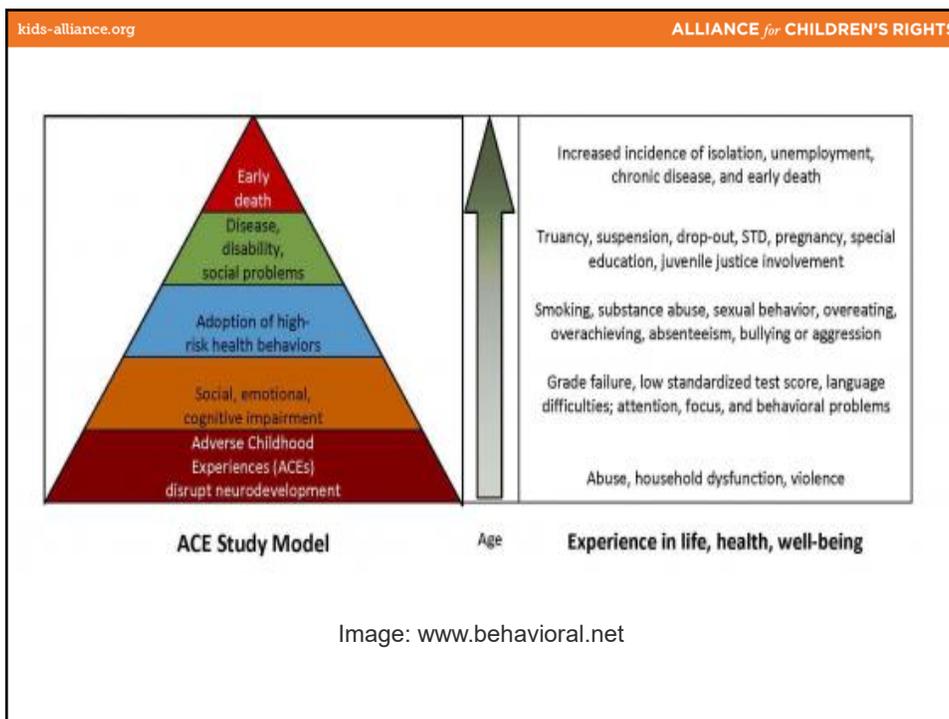
kids-alliance.org ALLIANCE for CHILDREN'S RIGHTS

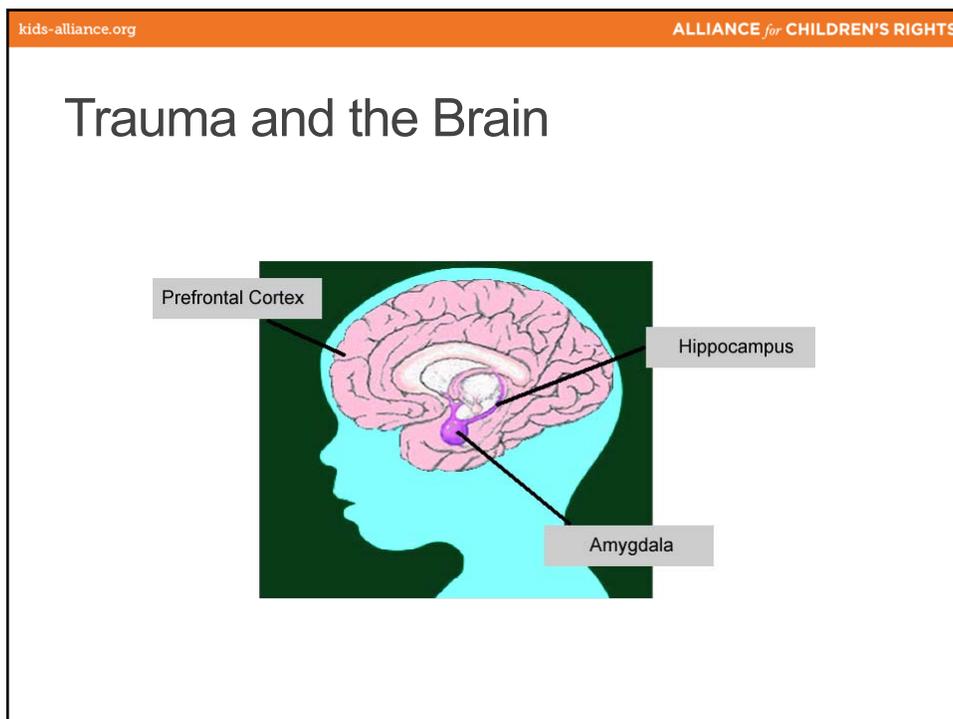
Probability of Outcomes

Given 100 American Adults

33 No ACEs	51 1-3 ACEs	16 4-8 ACEs
<u>WITH 0 ACEs</u> 1 in 16 smokes	<u>WITH 3 ACEs</u> 1 in 9 smokes	<u>WITH 7+ ACEs</u> 1 in 6 smokes
1 in 69 are alcoholic	1 in 9 are alcoholic	1 in 6 are alcoholic
1 in 480 uses IV drugs	1 in 43 uses IV drugs	1 in 30 use IV drugs
1 in 14 has heart disease	1 in 7 has heart disease	1 in 6 has heart disease
1 in 96 attempts suicide	1 in 10 attempts suicide	1 in 5 attempts suicide

<http://www.iowaaces360.org/ace-study.html>





kids-alliance.org ALLIANCE *for* CHILDREN'S RIGHTS

Signs of Trauma

Young Children (Birth-5)

- Irritability, "fussiness"
- Startling easily or being difficult to calm
- Frequent tantrums
- Clinginess, reluctance to explore the world
- Activity levels that are much higher or lower than peers
- Repeating traumatic events over and over in dramatic play or conversation

Adapted from Safe Start Center. Tips for Staff and Advocates Working with Children: Polyvictimization, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, available at http://oijdp.gov/programs/safestart/TipSheetFor_Polyvictimization.pdf

Trauma & Education

- Children who were exposed to four or more adverse experiences were **32 times** more likely to have **learning and behavioral problems** than non-traumatized children.
- Maltreated children are more likely than their peers to be **retained** a grade, have **irregular attendance**, and be placed in **special education** classes.
- Children with higher exposure to violence have **lower grade point averages** and more absences than children with less exposure to violence.
- Children with ACES are more likely to have:
 - Early initiation of sexual activity
 - Adolescent pregnancy

Maura McNemey, Esq and Amy McClinton, M.S.W., *Unlocking the Door to Learning: Trauma-Informed Classrooms & Transformational Schools*, Education Law Center, available at <http://www.elc-pa.org/wp-content/uploads/2015/06/Trauma-Informed-in-Schools-Classrooms-FINAL-December2014-2.pdf>

Trauma & Foster Youth

- All youth may experience trauma, but foster youth have a higher likelihood of experiencing:
 - Physical, sexual or emotional abuse
 - Witnessing domestic or other violence in the home, community, or at school
 - Neglect
 - Criminalization of 'normal' adolescent behavior
 - Broken Social Contracts
- The trauma experienced by foster youth before removal is exacerbated by:
 - The experience of being removed from their biological parents
 - The additional trauma with each home placement and school change. Foster youth change schools an average of 8 times while in care.
 - The trauma of building and establishing relationships with each change of school and home.
- Foster youth have rates of Post Traumatic Stress Disorder that are more than twice that of U.S. War veterans

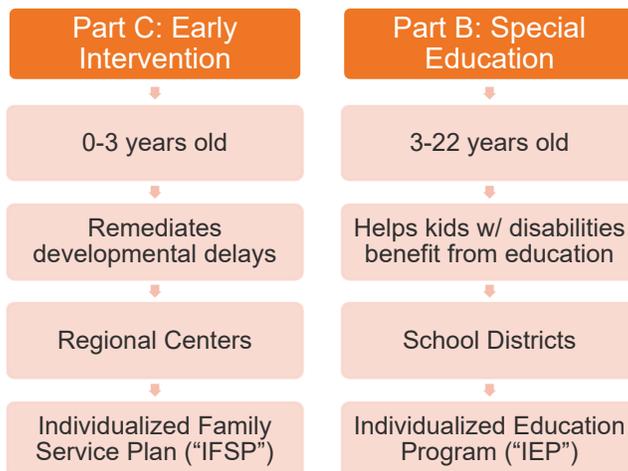
Foster Youth Education Outcomes

- 80% repeat a grade by the 3rd grade
- Only 21% of foster youth are proficient in English Language Arts by 11th grade and only 6% in Math
- Less than 60% of foster youth graduate high school
- Less than 3% obtain a higher education degree
- Within 2 years of aging out of foster care, more than 50% are **homeless, incarcerated or on welfare**

See Barrat, V. X., & Berliner, B. (2013). The Invisible Achievement Gap, Part 1: Education Outcomes of Students in Foster Care in California's Public Schools. San Francisco: WestEd., available at https://www.wested.org/wp-content/files_mf/1400283692Invisible_Achievement_Gap_Full_Report.pdf



Individuals w/ Disabilities Education Act (IDEA)



ALLIANCE
for **CHILDREN'S**
RIGHTS



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



ALLIANCE
for **CHILDREN'S**
RIGHTS



Education Rights Holders

Who automatically holds education rights?

- Biological parents
- Adoptive parents
- Legal Guardians
- Prospective Adoptive Parents for youth over the age of 16 (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



What is Early Intervention?

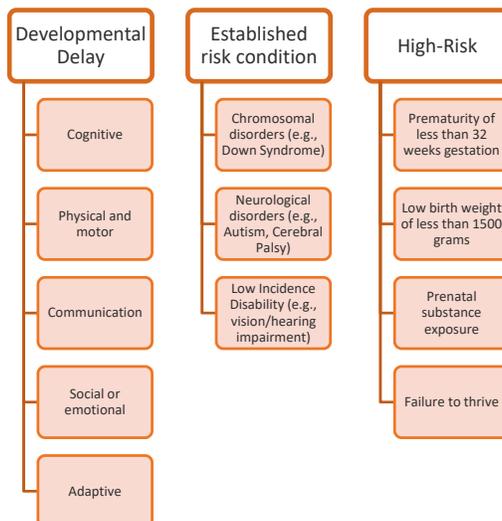
- Under the Individuals with Disabilities Education Act (IDEA), a child with a significant developmental delay, or at risk of developing one, has a right to early intervention services
- In California, called “Early Start” Program; administered by Department of Developmental Services (“DDS”) and Regional 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



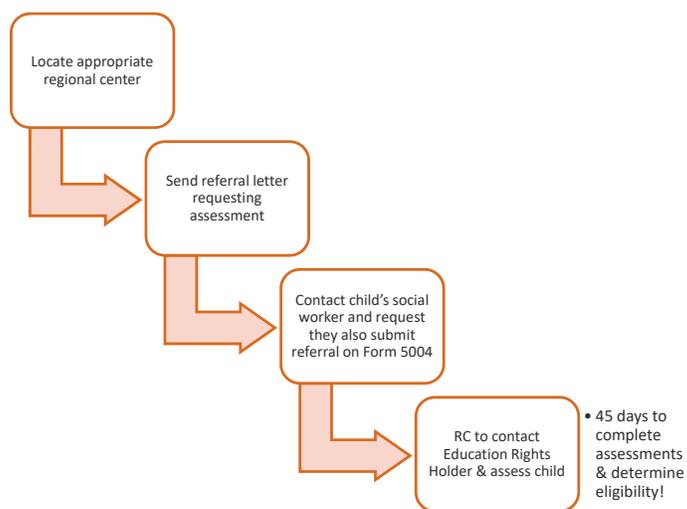
Early Intervention Services

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

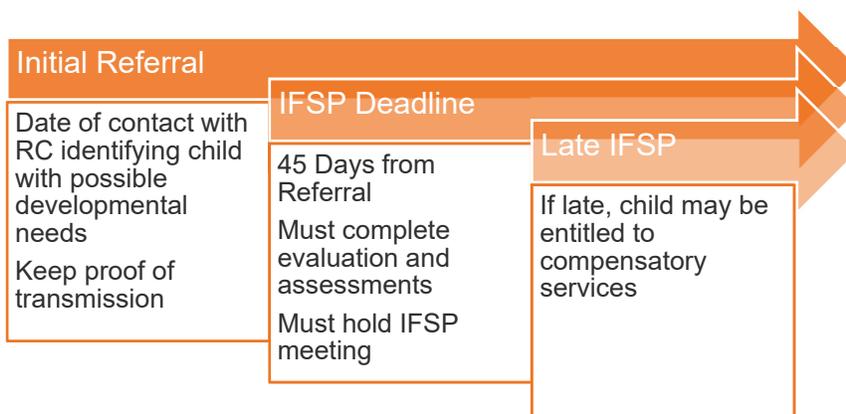


Identifying Delays

- 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)?

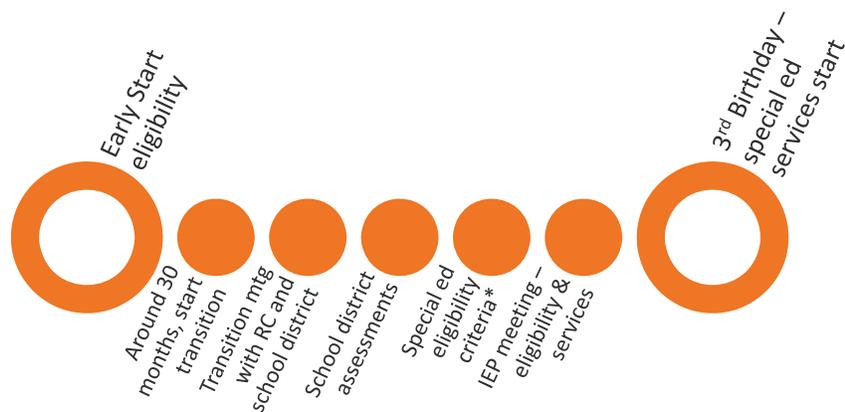
IFSP	IFSP Team	ERH Rights
<ul style="list-style-type: none"> • Contract between client and the regional center • For children 0-3 • Must list all of the services and supports • Must be reviewed every 6 months • Must be signed by ERH 	<ul style="list-style-type: none"> • ERH • RC Service Coordinator • 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?

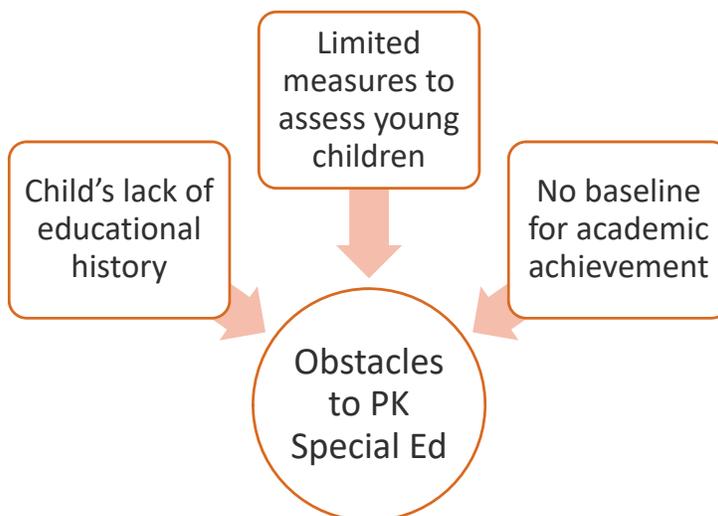
IFSP
Components

- 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



Unique Challenges for PK Special Ed





ALLIANCE 
for CHILDREN'S
RIGHTS

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 Manual, Page 16



Education Warning Signs

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

- Problems attending to preschool program
- Difficulty with classroom activities such as singing nursery rhymes, tracing letters, listening to stories
- Behavior problems, such as acting out when frustrated or being defiant; being asked to leave their preschool program

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)

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

Education Manual, Page 18



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



Education Manual, Page 18



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

Education Manual, Page 19



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

Education Manual, Page 20



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

Education Manual, Page 21

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.



Education Manual, Page 21

Monitoring Youth with IFSPs/IEPs At Each Hearing

Continue to look for:

- Significant delays in language or motor without SL, OT, or PT services
- Behavioral problems in their educational program

Consider:

- Helping the ERH find an education advocate/attorney (317e panel)
- Requesting a new assessment

Court Companion to the Foster Youth Education Toolkit

Provides:

- Overview of legal rights
- Best practices for social workers, probation officers, Judges, attorneys for youth and parents and ERHs
- Tools!

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

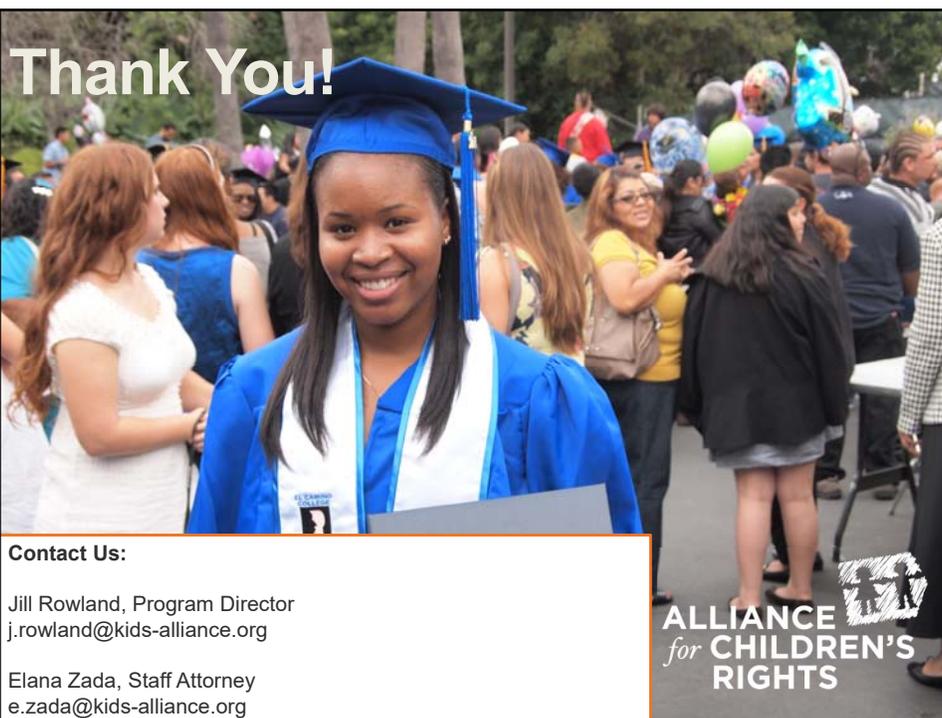


Return to Learning Objectives

- 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



Thank You!

A photograph of a young woman in a blue graduation cap and gown, smiling at a graduation ceremony. She is holding a diploma. In the background, other graduates and people are visible, some with balloons.

Contact Us:

Jill Rowland, Program Director
j.rowland@kids-alliance.org

Elana Zada, Staff Attorney
e.zada@kids-alliance.org

The Alliance for Children's Rights logo, featuring a stylized icon of two figures and the text "ALLIANCE for CHILDREN'S RIGHTS".