

**DISTANCE  
LEARNING  
WITH AN IEP**

**PRIYA  
BAHL-SEN  
ESQ.**

**HOPE4FAMILIES**



## **Hope 4 Families**

Hope4Families is a community based 501 (c)(3) nonprofit Special Education Public Interest Law Firm offering support to the families of special needs children, at no cost.

Hope4Families assists parents/guardians of special needs school children in advocating for services from their school districts.

Hope4Families is committed to providing the highest quality legal advocacy to underserved communities that we proudly represent.

## **SERVICES AVAILABLE**

Intakes with Parents; Review Educational Records; Collaborate with School Districts; Attend IEP Team Meetings; Due Process Litigation;

Collaborate with Mental Health Professionals;

Parent Trainings. It is critical that Parents are involved and learn to advocate for their child's needs;

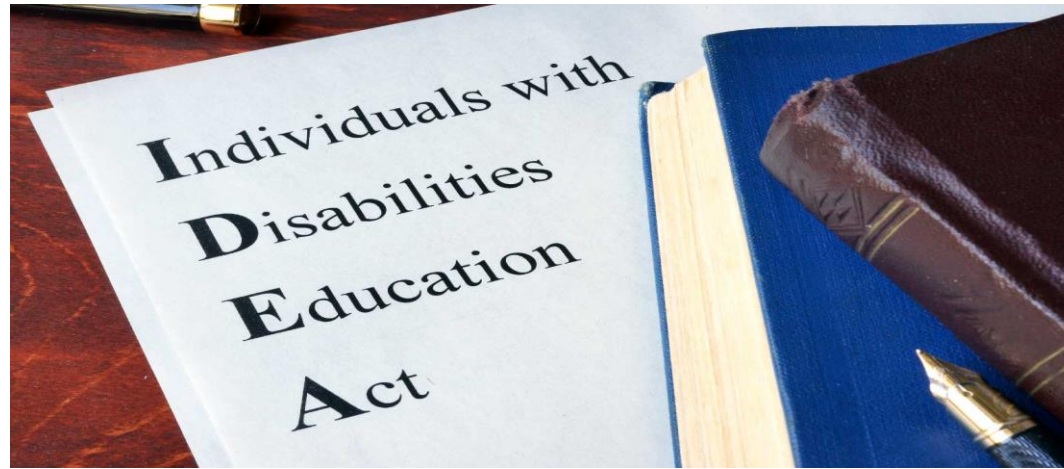
Strive to work as a team. We work regularly with wraparound teams and mental health professionals.

**[www.hope4familiesca.org](http://www.hope4familiesca.org)**

**We are in an unpredictable, rapidly changing environment.**

**The situation may change for a variety of reasons, including the pandemic itself, school district policies, court decisions and the law.**





## **The IDEA – Federal Law**

**The Individuals with Disabilities Education Act (IDEA), which was drafted and officially became federal law in 1975, provides a number of legal rights and protections for students as young as 3, and potentially up to the age of 22.**

**The IDEA established that every student is entitled to a free and appropriate public education (FAPE), and that parents and legal guardians should have input in determining their child's educational curriculum.**

**Even with these laws and protections in place, many parents find that services their children are entitled to are not being provided by school districts.**

## ***How Do I Know If My Child Is Eligible For IDEA And Specially Designed Educational Services ?***

**There are many categories through which a student can qualify for special education. According to the Individuals with Disabilities Education Act (IDEA) and the California Education Code, students must meet a specific criterion to qualify for Special Education. Included qualifications:**

- Speech or Language Impairment**
- Other Health Impairment (includes ADHD)**
- Autism**
- Emotional disturbance**
- Visual Impairment Including Blindness**
- Intellectual Disability**
- Multiple Disabilities**
- Specific Learning Disability (includes Dyslexia, Dysgraphia, and Other Learning Differences)**
- Established Medical Disability**

## **RIGHTS UNDER THE IDEA**

- If eligible for special education, a student with a disability is entitled to a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) through an Individualized Education Plan (IEP).

# F A P E

- A “free, appropriate public education” is
  - **Special education** (i.e., *specially designed instruction to meet the unique needs of the child*); and
  - **Related services** (*supportive services designed to enable the child to benefit from special education* --- such as transportation and specialized therapies) that allow the child to make reasonable educational progress.



# **FAPE - RELATED SERVICES**

- Services required to assist a child to benefit from special education

**Transportation**

**Speech-language therapy**

**Audiology services**

**Interpreting services  
counseling**

**Psychological services**

**School health services**

**School nurse services**

**Physical therapy**

**Occupational therapy**

**Therapeutic recreation**

**Counseling, including rehabilitation**

**Orientation & mobility services**

**Parent counseling and training**

# INDIVIDUALIZED EDUCATION PLAN (IEP)

- An IEP is a written document listing programs and services that school district is obligated to provide. An IEP is “blueprint” for the child’s free, appropriate, public education (FAPE) in the least restrictive environment
- The school district must create an IEP that is:
  - Tailored to meet the student’s **unique needs**;
  - Allows the student to obtain **meaningful educational benefit**.

# WHAT IS EDUCATIONAL BENEFIT ?

- *Endrew F. v. Douglas County School District*, 137 S.Ct 988 (2017)
- To meet its substantive obligation under the IDEA, a school must offer an individual education plan (IEP) reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.

**The IEP must contain present levels of academic achievement; measurable annual goals; statement of special education and related services.**

**The IEP goals drives the services.**

**An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability and potential for growth.**

## Federal Law Remains Unchanged

There is no pandemic exception to the Federal IDEA act. It is still in effect.

Parents are still entitled to FAPE (Free Appropriate Public Education).

In the wake of the pandemic, the U.S. Department of Education issued this guidance: “*The LEA [Local Education Agency] must make every effort to provide special education and related services to the child in accordance with the child’s individualized education program (IEP).*”

***However....***

**“[F]ederal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency.”**

**Services Offered During COVID-19 closures include:**

**Virtual IEP Team meetings**

**Virtual mediations and due process hearings**

**Virtual Bii's, SLT, OT, PT and other related/DIS services.**

**Services Not Offered:**

**In-person services (some individual families have received in person services after pursuing in-person services by filing due process complaints; case by case and based on unique needs).**

## IEP MEETING TIMELINES

There are three main types of IEP meetings: annual IEPs which are held once a year, Triennial IEPs which occur every three years, and Addendum IEP meetings which occur at the request of any IEP member (including you!) at any point in time.

**The purpose of IEP meetings is to review, revise, and update your child's IEP on a regular basis.**

***The point is to make sure the IEP provides the right help to meet your child's present needs. That's why it's important to review every element of the IEP each year.***



## **Virtual IEP Meeting Tips and Recommendations**

**All the same IEP team meeting rules apply.**

### **Request An IEP**

If Student is having difficulty, request an IEP to discuss progress and present levels of performance.

### **Prepare for Meeting**

- **Review Your prior IEP**

Study the previous IEP for your student, especially the present levels of performance, the goals and the services to be provided.

- **Request Assessment Reports and request draft of IEP goals prepared.**

- **Collect Your Own Data**

Track Behavior and Progress. Be well informed on what is working and not working.

Ex. How many minutes can be student engage in independent learning. Documents prompts and supports.

Collaborate with your private providers. Request recommendations from private providers.

## Weekly Service Log

Week of: \_\_\_\_\_

Access to tablet/computer: Y/N    Access to internet: Y/N

Date	Subject/Service (e.g. English, RSP Math, speech)	Indicate Method of Service Delivery**	Time/Duration	Describe access to instruction and level of engagement, or other issues
<i>Monday, 4/20/20 (Example)</i>	<i>Science (General Ed)</i>	<i>Live instruction with entire class</i>	<i>9:00 AM – 9:30 AM</i>	<i>Attended, engaged for 30 % of the time, difficulty completing assignment.</i>

**\*\*Method of Service Delivery\*\***

- Live class instruction
- Recorded class instruction by teacher
- Video or audio
- Live check-in
- Print materials with written or oral feedback
- Print materials with no feedback
- Consult with parent

## Weekly Service Log

**Student Name:**

**Grade:**

**Current IEP Date:**

**LIST OF SERVICES/ DURATION PER WEEK:** (e.g. speech group 30 min/wk or SAI 240 min/wk)

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

**LIST OF ACCOMMODATIONS**

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

## **Be Prepared To Identify Your Own Private Support**

Ex. OT, PT, Speech, Behavioral Support, 1:1 Educators, Reading Interventionist

In Person Support- You may need to hire.

Note the 10-day business notice of unilateral notice if you will seek reimbursement.

## **IEP Meeting**

Share Findings With IEP Team and collaborate as much as possible.

IEPS must continue to be based on present levels of performance. Are there additional assessments can provide necessary data? Students should be evaluated **every 3 years at least** (during triennial IEP) to ensure that services are appropriate.

Request time to review IEP before signing.

**Assessment timelines have returned to prior state law standards.**

**SB 98:**

**Distance Learning IEP:**

**IEPs must now include “a description of the means by which the individualized education program will be provided under emergency conditions.” Including instruction and all services.**

**Daily live interaction at grade level standards.**

**Technology necessary to connect students with schools.**

**Attendance and contact with student/family.**

**Assess students for learning loss during COVID-19**

**Current IEP Requirements From Senate Bill 98 (June, 2020).**

**All instruction and services required by IEP must be implemented.**

**Distance learning is not working for my child...  
Reach Out To Your School Site.....**

**Distance Learning Plan-**

**Would the best version of distance learning work?**

**Would Assistive Technology help?**

**Would Bll support help?**

**My child is unable to have an initial IEP because the school refuses to do an assessment.**

**The school district is not in compliance**

**If possible, identify an NPA that is willing to do the assessment.**

## Compensatory Education - **How can I get comp ed for my child?**

COMP ED is a remedy to be used when a school district is depriving a student of a FAPE.

U.S. ED offered this guidance on comp ed shortly after schools shutdown in March: “If a child does not receive services after an extended period of time, a school must make an individualized determination whether and to what extent Compensatory Services may be needed, consistent with applicable requirements, including to make up for any skills that may have been lost.”

Comp Ed is meant to put your child in the position they would have been in if they were not deprived of FAPE during school closure.

When schools re-open the IEP team must:

a) assess your child for progress or regression,

b) draft accurate present levels of performance, and

c) provide services based on their needs, including comp ed services.



**To make the best case for your child to receive comp ed, we strongly suggest keeping track of your student's progress (or lack thereof): This can be done with a daily diary, work samples or a chart.**

# **SUMMARY OF LEGAL RIGHTS DURING DISTANCE LEARNING**

- **Right to Special Education and FAPE.**
- **Right to Equitable Services.**
- **Right to Virtual Services; some may be Essential Services that allow for in-person services, such as ABA.**
- **Right to request an IEP Meeting, Written Amendment or Distance Learning Plan.**
- **Timelines for IEP's currently intact.**
- **Right to Compensatory Education (case by case).**

“If a child  
can't learn  
the way we teach,  
maybe we  
should  
teach the  
way they learn.”

~ Ignacio Estrada

An Everyday Story