

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

Instruction
INDIVIDUALIZED EDUCATION PROGRAM

At the beginning of each school year, the County Superintendent shall have an individualized education program (IEP) in effect for each student with an exceptional need within County Superintendent jurisdiction. The IEP shall be a written statement that is developed, reviewed, and revised by the IEP team to meet the unique educational needs of a student with an exceptional need. (Education Code 56344, 56345; 34 CFR 300.320, 300.323)

Members of the IEP Team

Unless excused by written agreement in accordance with Education Code 56341, the IEP team for any student with an exceptional need shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414; 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by a parent.

To the extent permitted by federal law, a foster parent shall have the same rights relative to a foster child's IEP as a parent/guardian. (Education Code 56055)

2. If the student is or may be participating in the general education program, at least one of the student's general education teachers designated by the County Superintendent or designee to represent the student's general education teachers.

The general education teacher of the student shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414; 34 CFR 300.324)

3. At least one of the student's special education teachers or, if appropriate, special education providers.
4. A representative of the County Superintendent who is:
 - a. Qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with exceptional needs;
 - b. Knowledgeable about the general education curriculum; and,
 - c. Knowledgeable about the availability of County Superintendent resources.

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The County Superintendent may designate another member of the IEP team that is an employee of the County Superintendent to serve in this role as long as that person meets the criteria in (a) through (c), above.

5. An individual who can interpret the instructional implications of assessment results. This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or the County Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.
7. Whenever appropriate, the student.

In the development, review, or revision of the IEP, the student shall be allowed to provide confidential input to any representative of the IEP team. (Education Code 56341.5)

8. When the student is suspected of having a learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of students, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

In accordance with 34 CFR 300.310, at least one team member other than the student's general education teacher shall observe the student's academic performance and behavior in the areas of difficulty in the student's learning environment, including the general classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the County Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)
2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist the student in reaching the goals, the following individuals shall be invited to attend: (34 CFR 300.321)
 - a. The student, regardless of the student's age.

If the student does not attend the IEP team meeting, the County Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.

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- b. To the extent appropriate, and with the consent of the parent/guardian or adult student, a representative of any other agency that is likely to be responsible for providing or paying for transition services.
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the County Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414; 34 CFR 300.321)

IEP Team Member Excusal

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the County Superintendent agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian and the County Superintendent agree, in writing, to the excusal after conferring with the member and the member submits to the parent/guardian and IEP team written input into the development of the IEP prior to the meeting. (Education Code 56043, 56341; 20 USC 1414; 34 CFR 300.321)

Contents of the IEP

The IEP shall include, but not be limited to, all of the following: (Education Code 56345, 56345.1; 20 USC 1414; 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including all of the following:
 - a. The manner in which the exceptional need affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for a student without exceptional needs);
 - b. For a preschool student, as appropriate, the manner in which the exceptional need affects the student's participation in appropriate activities; and,
 - c. For a student with an exceptional need who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
2. A statement of measurable annual goals, including academic and functional goals, designed to:
 - a. Meet the student's needs that result from an exceptional need in order to enable

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the student to be involved in and make progress in the general education curriculum; and,

- b. Meet each of the student's other educational needs that result from the exceptional need.
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the County Superintendent will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals;
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities; and,
 - c. Be educated and participate with other students with exceptional needs and students without exceptional needs in the activities described in the IEP.
5. An explanation of the extent, if any, to which the student will not participate with students without exceptional needs in the general education class and in extracurricular and other nonacademic activities described in the IEP.
6. A statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the student on state and agency wide assessments.

If the IEP team determines that the student must take an alternate assessment instead of a particular regular state or agency wide assessment of student achievement, the student's IEP also shall include a statement of the reason that the student cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate.

7. The projected date for the beginning of the services and modifications described in item #4 above, and the anticipated frequency, location, and duration of those services and modifications.

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8. If determined appropriate by the IEP team, when the student starts high school or not later than the first IEP to be in effect when the student is 16 years of age, or younger, and updated annually thereafter, the following:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
 - b. The transition services, including courses of study, needed to assist the student in reaching those goals;
9. A description of the means by which the IEP will be provided under emergency conditions, as described in Education Code 46392, in which instruction and/or services cannot be provided to the student either at the school or in person for more than 10 school days.

The description shall take into account public health orders and shall include special education and related services, supplementary aids and services, transition services, and extended school year services.
10. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of the rights, if any, that will transfer to the student upon reaching age 18, pursuant to Education Code 56041.5.
11. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the County Superintendent's prescribed course of study and to meet or exceed proficiency standards required for graduation.
12. For a student whose native language is not English, linguistically appropriate goals, objectives, programs, and services.
13. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE).
14. If the student is to be transferred from a special class or nonpublic, nonsectarian school into a general education program in a public school for any part of the school day, a provision for transition shall include descriptions of activities intended to:
 - a. Integrate the student into the general education program, including the nature of each activity and the time spent on the activity each day or week; and,
 - b. Support the transition of the student from the special education program into the general education program.
15. For a student with low incidence disabilities, specialized services, materials, and equipment consistent with the guidelines pursuant to Education Code 56136.

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To assist a student who is blind, has low vision, or is visually impaired to achieve the student's maximum potential, the IEP team may, but is not required to, consider instruction in the expanded core curriculum, including compensatory skills such as Braille, concept development, or other skills needed to access the core curriculum; orientation and mobility; social interaction skills; career technical education; assistive technology, including optical devices; independent living skills; recreation and leisure; self-determination; and sensory efficiency. When appropriate, such services may be offered before or after school. (Education Code 56353)

Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the County Superintendent, or designee, shall ensure that a meeting to develop an initial IEP is conducted. (Education Code 56043; 34 CFR 300.323)

An IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56043, 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56040.6, 56341.1, 56345; 20 USC 1414; 34 CFR 300.324)

1. The strengths of the student;
2. The concerns of the parents/guardians for enhancing the education of their child;
3. The results of the initial or most recent assessment of the student;
4. The academic, developmental, and functional needs of the student;
5. In the case of a student whose behavior impedes the student's learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior;
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP;
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille;

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However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of future needs for instruction in Braille or the use of Braille.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

The team shall also consider placements, related services, and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services.

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

Provision of Special Education and Related Services

The County Superintendent shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with the student's IEP. (Education Code 56043, 56344; 34 CFR 300.323)

The County Superintendent shall ensure that the student's IEP is accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation. The County Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

If an orientation and mobility evaluation is determined to be needed for a student who is blind, has low vision, or is visually impaired, the evaluation shall be conducted by a person who is appropriately certified as an orientation and mobility specialist and shall occur in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school, and community, as appropriate. The County Superintendent or designee may require annual written parent/guardian consent to provide orientation and mobility services when such services are provided before or after school and when they are provided away from the school site. (Education Code 56354; 5 CCR 3051.3)

If a student's IEP requires the provision of assistive technology devices or services, the County Superintendent shall provide such devices or services and shall, on a case-by-case basis,

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provide for the use of school-purchased devices in the student's home or other settings if the IEP team determines that the student needs access to those devices in order to receive FAPE. If a student who requires the use of an assistive technology device transfers to another local educational agency, the County Superintendent shall provide the student with continued access to that device or a comparable device for two months from the date the student ceased to be enrolled in the County Superintendent school or until alternative arrangements can be made to provide access to the device, whichever occurs first. (Education Code 56040.3; 34 CFR 300.105)

Review and Revision of the IEP

The County Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56343, 56380; 20 USC 1414; 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved;
2. The appropriateness of the student's placement; and,
3. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
 - b. The results of any reassessment conducted pursuant to Education Code 56381;
 - c. Information about the student provided to, or by, the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305 and Education Code 56381;
 - d. The student's anticipated needs; and,
 - e. Any other relevant matter.
4. Consider the special factors listed in Items #5-9 above, under "Development of the IEP," when reviewing the IEP of any student with an exceptional need to whom one of those factors may apply

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the County Superintendent shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

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A general education or special education teacher may request a review of the classroom assignment of a student with an exceptional need by submitting a written request to the County Superintendent or designee. The County Superintendent or designee shall consider the request within 20 days of receiving it, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If the review indicates a need for change in the student's placement, instruction, and/or related services, the County Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the County Superintendent or designee's review, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days.

If a participating agency other than the County Superintendent fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the student's IEP. (Education Code 56345.1; 20 USC 1414; 34 CFR 300.324)

If a student with an exceptional need residing in a licensed children's institution or foster family home has been placed by the County Superintendent in a nonpublic, nonsectarian school, the County Superintendent shall conduct an annual evaluation as part of the IEP process, of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

To the extent possible, the County Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414; 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the County Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the County Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (Education Code 56380.1; 20 USC 1414; 34 CFR 300.324)

Audio Recording of IEP Team Meetings

Parents/guardians and the County Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the County Superintendent or designee initiates the notice, and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings;
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights;

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and,

3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights.

Parent/Guardian Participation and Other Rights

The County Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with exceptional need are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The County Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting;
2. Indicate who will be in attendance at the meeting; and,
3. Inform parent/guardians of:
 - a. The right to bring other people who have knowledge or special expertise about the student pursuant to Education Code 56341; and,
 - b. The provision of Education Code 56341 relating to the participation of the infant and toddlers with disabilities coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004).

Additionally, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the County Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414, and 34 CFR 300.320;
2. An indication that the student is invited to the IEP team meeting; and,
3. An indication that, with parent/guardian or adult student consent, the County Superintendent will invite, to the extent appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

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At each IEP team meeting convened by the County Superintendent, the County Superintendent administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

The parent/guardian shall have the right and opportunity to examine all of the student's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting the student, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the County Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the County Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414; 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the County Superintendent or designee is unable to convince the parent/guardian to attend. In such a case, the County Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parent/guardian and any responses received; and,
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

The County Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The County Superintendent shall give the parents/guardians of a student with an exceptional need a copy of the IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student pursuant to 20 USC 1414, the County Superintendent or designee shall seek to obtain informed consent of the

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student's parent/guardian. (Education Code 56346)

If the parent/guardian fails to respond or refuses to consent to the initiation of services, the County Superintendent shall not use the due process hearing procedures pursuant to 20 USC 1415 to obtain agreement or a ruling that the services may be provided to the student. In such circumstances, the County Superintendent shall not be required to convene an IEP team or develop an IEP for the student. (Education Code 56346)

If the parent/guardian consents in writing to the receipt of special education and related services for the student but does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. If the County Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415. While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the County Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the County Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The County Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the County Superintendent or designee may, but is not required to, offer to meet with the parents/guardians to discuss concerns for the student's education. This meeting may be an IEP team meeting. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services.

When the County Superintendent ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

Transfer Students

To facilitate the transition of a student with an exceptional need who is transferring into a school of the County Superintendent, the County Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including the IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into a school of the County Superintendent from another school district within the same Special Education Local Plan Area (SELPA) during the school year, the County Superintendent shall continue to provide services comparable to those described in the student's existing IEP, unless the student's parent/guardian and the County Superintendent

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agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into a school of the County Superintendent from a school district outside of the County Superintendent's SELPA during the school year, the County Superintendent shall provide the student with FAPE, including services comparable to those described in the previous district's IEP in consultation with the student's parent/guardian, for a period not to exceed 30 days. By the end of that period, the County Superintendent shall either adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into a school of the County Superintendent from an out-of-state district during the school year, the County Superintendent shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the County Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

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