

SOUTHWEST SELPA



PROCEDURAL MANUAL



This manual is designed to support local school districts and charter schools within the Southwest SELPA in following federal and state laws related to Special Education. The Southwest SELPA is a multi-district SELPA that supports and coordinates special education services for approximately 12,000 students residing in the 12 school districts and 22 charter schools in the South Bay area. While federal and state regulations change, this document will be modified as needed.

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PROCEDURAL HANDBOOK & GUIDELINES
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SECTION 1

INTRODUCTION



SECTION 2

IDENTIFICATION, REFERRAL,
AND ASSESSMENT

IDENTIFICATION, REFERRAL, AND ASSESSMENT

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IDENTIFICATION, REFERRAL AND ASSESSMENT

2.1 INTRODUCTION

All individuals with suspected disabilities from birth through age 21 will be identified and referred to the appropriate agency to be assessed. Each individual will receive a full and individual evaluation to identify the disability, determine eligibility and identify educational needs.

The assessment information will provide the basis for an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) to ensure the individual receives a free appropriate public education (FAPE).

2.2 IDENTIFICATION

2.2 A. Child Find

The Special Education Local Plan Area (SELPA) and individual LEAs will actively and systematically seek out all individuals with disabilities including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools.

Child Find activities may include but not limited to:

1. A comprehensive screening program, including health, vision, hearing, speech and language;
2. Distribution of written information, including brochures and pamphlets describing the referral procedure;
3. Public awareness campaign, including public service announcements;
4. Annual notices to local newspapers;
5. Consultation with representatives of private schools, including religious schools on how to carry out activities to identify children with suspected disabilities;
6. Coordination with preschools, Head Start and other childcare facilities;
7. Communication with hospitals, pediatricians, obstetricians and other health professionals;

special needs that cannot be met with modifications of the regular instructional program, including referrals from student intervention teams, such as the Student Success Team.

A child shall be referred for special education and related services only after the resources of the regular education program have been considered and, where appropriate, utilized. (EC 56303)

2.3 B. Referral Procedure

1. Referrals for assessments to determine eligibility for special education and related services will be made to the school site principal or designee at the child's school of residence.
2. Referrals may be processed through the school site Student Success Team or other student intervention team to review the referral and document interventions tried prior to referral.
3. All requests for assessments will be submitted in writing. If a parent makes the request verbally, the principal or designee will assist the parent in making the request in writing.
4. If the referral is not coming from the parent, the school site administrator or designee will review the referral. If the information is incomplete the referral source will be contacted to request additional information. If the information is complete, the school site administrator or designee will initiate the assessment process, including notification of parent. An assessment plan will be developed.
5. No assessment will be conducted without written parent consent.

2.3 C. Responding to Inappropriate Referrals

If, after reviewing, all relevant information, the administrator and assessment planning team, consider the referral inappropriate, the parents must receive a prior written notice which includes the following:

1. A description of the action refused by the district;
2. An explanation why the district refuses to take the action;
3. A description of any other options that the district considered and the reasons why those options were rejected;
4. A description of each procedure the district used as a basis for the refused action;

consent; the LEA may pursue the initial evaluation through due process.

4. **Absence of Consent for Initial Services:** If the parent of a child does not provide consent to the initial provision of services, the LEA shall **not** provide special education and related services to the child by using due process.
5. **Effect on LEA Obligation:** If the parent of a child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent:
 - a. The LEA shall not be considered to be in violation of the requirement to make a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the LEA requests such consent; and
 - b. The LEA shall not be required to develop an IEP for the special education and related services for which the LEA requests such consent.
6. If the child is a ward of the State and not residing with the child's parent, the LEA shall make reasonable efforts to obtain such consent from the parent of the child for the initial evaluation to determine whether the child is a child with a disability. (30 EC 56346)

2.5 ASSESSMENT PROCESS

2.5 A. Initial Assessments

A comprehensive and individual assessment shall be conducted for each child being considered for special education and related services to determine if the child meets eligibility criteria as a child with a disability and to determine the educational needs of the child.

Once a student has been referred for initial assessment, the student will be assessed in all areas of suspected disability. An individualized education program (IEP) meeting shall occur, within 60 calendar days of receiving written parental consent for the assessment, not counting days between vacation in excess of five school days.

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each LEA's school calendar. In the case of school vacations, the 60-day timeline shall recommence on the date that student schooldays reconvene. A meeting to develop an IEP for a student shall be conducted within 30 days of a determination that the student needs special education and related services. (Section 300.323 © of Title 34 of the

The LEA shall not be required to obtain informed consent from the parent of a child for an initial assessment to determine whether the child is an individual with exceptional needs under any of the following circumstances:

1. Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child.
2. The rights of the parent have been terminated in accordance with state law.
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for initial assessment has been given by an individual appointed by the judge to represent the child.

Parental consent is not required before *reviewing existing data* as part of an assessment or reassessment, or before administering a test or other assessment that is administered to all children unless before administration or reassessment, or before administration of that test or assessment, consent is required of the parents of all children.

The *screening* of a pupil by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

As part of the assessment plan the parents will be provided with a written notice that upon completion of the administration of tests and other assessment material, an Individualized Education Program (IEP) team meeting will be held. The IEP team will discuss the assessment results, review any additional information, discuss the educational recommendations, and the reasons for these recommendations. Parents will receive a copy of the assessment report and the documentation of determination of eligibility.

Included with the assessment plan will be a copy of Parents' Rights and Procedural Safeguards. Contained in the rights document is information on how to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, if the parent disagrees with an assessment obtained by the district.

No assessment will be conducted unless the written consent of the parent is obtained prior to the assessment. The parent shall have at least 15 days from the receipt of the proposed assessment plan to notify the district of consent. Assessment may begin immediately upon receipt of the consent. The assessments will be completed and an IEP meeting scheduled within 60 calendar days from the date of the receipt of the parent's consent for assessment.

Parent consent for assessment shall not be construed as consent for placement or for receipt of special education and related services.

8. The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment.

As part of an initial evaluation the IEP team will review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and observations by teachers and related services providers. (EC 56320, 56324)

2.5. D. Assessment of African American Children under Larry P Decision

The Larry P v. Riles (1979) court case is the basis for law that disallows the administration of standardized intelligence quotient (IQ) tests to African American students. To ensure compliance with the Larry P. mandate, the CDE has established compliance review procedures to evaluate how well school districts are meeting this mandate for their African American students. The following areas are monitored to ensure compliance with this mandate:

1. Does the plan include a description of alternative means that will be used to assess language impairment or specific learning disabilities when standard tests are considered invalid?
2. Is there evidence that the assessment will be comprehensive? Do tests and other assessment materials meet the following requirements:
 - a. Are materials selected and administered that are not racially or culturally discriminatory?
 - a. Do assessment procedures ensure that IQ tests are not administered to African American students?
 - b. Do assessments result in a written report which includes the findings of each assessment and contain required information?
3. To what extent is the assessment varied from standard conditions?
4. What effects do environmental, cultural, or economic conditions have on the child's performance?

2.5. E. Assessment Report

The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited

The three-year reassessments will consider the following in determining the need for additional information:

1. A review of existing data including evaluations and information provided by the parents of the pupil.
2. Current classroom-based assessments and observations by teachers and related services providers.
3. Observations by teachers and related service providers.

On the basis of that review, and input from the pupil's parents, the team will identify what additional data, if any, are needed to determine, including

1. Whether the pupil continues to have a disability;
2. The present levels of performance and educational needs of the pupil;
3. Whether the pupil continues to need special education and related services; and,
4. Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the IEP of the child and to participate as appropriate in the general curriculum.

If the team determines that additional testing or more comprehensive procedures are required, the district will proceed with appropriate assessment procedures.

If the team determines no additional data is needed, the district will notify the parents of that determination and the reason for it and the right of the parents to request an assessment.

The district is not required to conduct the assessment unless requested to do so by the pupil's parents. (EC 56380, 56381; CFR 300.533, 300.536)

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| NOTE: Refer to the Appendix B for <i>Southwest SELPA Triennial Evaluation Process</i> |
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2.6 B State and Federally Mandated Behavioral Assessments

Following are descriptions of two different behavioral assessments that are required for specific students under either State or federal regulations. A functional behavioral assessment (FBA) is required by federal law and is part of the disciplinary process. A

Functional analysis assessment personnel shall gather information from three sources: direct observation, interviews with significant others, and review of available data such as assessment reports prepared by other professionals and other individual records. Prior to conducting the assessment, parent notice shall be given and parental consent obtained.

A functional analysis assessment procedure shall include all of the following:

1. Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
2. Systematic observation of the immediate antecedent event associated with each instance of the display of the targeted inappropriate behavior;
3. Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual;
4. An analysis of the settings in which the behavior occurs most frequently;
5. Review of records for health and medical factors which may influence behaviors; and,
6. Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

Following the assessment, a written report of the assessment results shall be prepared and a copy shall be provided to the parent. The report shall include all of the following:

1. A description of the nature and severity of the targeted behavior(s) in objective and measurable terms;
2. A description of the targeted behavior(s) that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs; and
3. Recommendations for consideration by the IEP team which may include a proposed Positive Behavior Intervention Plan.

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| NOTE: Refer to the Appendix C for Students Exhibiting Serious Behavior (Hughes Bill) |
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**Southwest SELPA
Intervention4Success
Program Overview**

The Intervention4Success Project was established in 2008-09 at the request of the Superintendent's Counsel. The project has supported its member districts and charter schools in developing a systematic intervention-based approach utilizing the AccelSST (Student Success Team) web-based data collection system. This approach formalizes and structures the highly effective site-based problem solving method in order to intervene systematically when early warning signs indicate that a student is struggling with learning and/or behavior.

For more information on the use of and procedures for the AccelSST web-based data collection system, please refer to the system's manual.

Consistent with policies and laws set forth by CDE, NCLB, and IDEIA, each SW SELPA district and charter school is developing and/or utilizing a tiered methodology in which increasing levels of intensity in programming are provided before students are referred for services outside the general education program.

The key components of the Intervention4Success Student Success Team (SST) process include:

1. Universal screening, which identifies levels of proficiency for each student's essential skills.
2. Research based and high quality instruction at the core and targeted and intensive levels; and
3. Progress monitoring and data driven decision-making, which includes tracking student progress to gather information to inform the instructional and intervention process is required.

The intervention-based problem solving approach focuses on ensuring that targeted instruction is begun as early as possible and matched to individual student need. The assumption is that the majority of student identified will have their needs met as they move through the levels of specialization. Each school tailors their own model based on the site level resources and learner needs. Special education, categorical and general education intervention staff may be utilized in a variety of ways at targeted and intensive tier levels. Formal special education assessment is conducted when all general education intervention opportunities have been attempted as appropriated and the student's response to the intervention has been analyzed to determine further instructional needs.

Southwest SELPA
Intervention4Success
Student Success/Study Team (SST)

Summary

PURPOSE

- Provide school staff and/or parent/guardian an opportunity to discuss academic and/or behavioral concerns for a specific student
- Implement and document interventions to be tried with the student
- Coordinate services for the multi-funded student (SIP, Title I, ELL, etc.)

PARTICIPANTS

- SST should be comprised mainly of general education staff
- Special education staff may be invited on an as needed basis

REFERRAL FOR SPECIAL EDUCATION ASSESSMENT

- SST provides opportunity for school to implement and document interventions
- Referral for special education assessment comes after all options have been exhausted through general education

Overview

Student Study (or Success) Teams (SSTs) are school-based, problem-solving groups whose mission is to assist teachers, administrators and school staff with intervention strategies for dealing with the academic and social-emotional behavioral needs of regular education students. Such groups seek creative ways to maximize the use of available resources and formalize what is already being done for students in the building.

SSTs serve as a way to address individual student needs and to enhance existing methods of operation within the school organization. The SSTs have the potential to:

- Enable the school's instructional program to meet a broader range of student needs
- Employ group problem-solving procedures to resolve both academic and behavioral concerns
 - Provide structured support and assist teachers in varying instructional strategies
 - Assist teachers in developing and implementing positive behavioral supports to improve student behavior and class discipline
- Reduce the number of inappropriate referrals for a formal Special Education evaluation

- Identify for early intervention students who are at-risk to themselves and/or others
- Encourage attitude shifts from within-child problems to examining the ecological context of the school environment
- Engage outside resources and foster positive relationships with parent and community partners
- Acknowledge a sense of teamwork and enhance professional development by sharing expertise

Purpose of Student Study Teams

The purpose of the SST is to design a support system for student having difficulty in the regular classroom. Once activated, this process will assist teachers and students by generation classroom instructional suggestions, classroom accommodations and intervention plans. The team may also act as a resource for additional services or programs (i.e., ELD, MediCare programs, etc.).

SSTs provide consultation to teachers using a problem-solving process to better serve students. They provided teachers with enhanced skills that may be useful in assisting future students. Additionally, SSTs decrease inappropriate referrals to special education. SSTs assist the school community in maximizing resources. SSTs are not intended to replace reviews for students with current IEPs.

Developing an SST Procedure Statement

Each school should have a SST procedure statement. There are several arguments for considering the development of a written procedure regarding the implementation of a SST in a school. First, a written SST procedure demonstrates that the school values collaboration, sees student problems as multi-factored and views solutions within their environmental context. Second, a SST procedure provides a concrete definition of how school staff, parents, and community agencies can access their respective SST. Finally, if questions arise, the existence of a defined procedure suggests that the school and the district have made an attempt to be accountable for meeting the educational needs of all students. The SST procedure statement should include the following*:

- A. A working definition and description of the SST.
- B. A description of the access/submission process, including
 - a. How to gain access to the SST,
 - b. Who may recommend that a student be placed on the SST's agenda,
 - c. The type of information required,
 - d. And, the documentation required.
- C. A description of the procedural steps of the SST meeting, including a plan for follow-up.

*Careful consideration should be given to wording and language used by the SST in procedural guidelines. It is suggested to use the wording, "requests access to the SST process" or "would like to have a student's name placed on the SST's agenda" rather than using the word "referral". The word "referral" infers certain legal obligations under IDEA.

Identifying and Selecting SST Members

The size of the SST depends upon the personnel resources available in a building. The typical size of SSTs ranges from four to seven members. In most instances, a core team is established. This core team may be composed of the principal, assistant principal or SST coordinator, guidance counselor, regular education teacher, school psychologist or social worker, special education teacher, paraprofessionals, ESL staff and/or, school nurse. Core team membership is based upon building need, student need, and/or available resources. One advantage to using core team is that it provides continuity for members serving on the team.

Other SST members in addition to the core team (e.g., the recommending teacher, court appointed officer, Social Services representative, a Harbor Regional representative, parent) may be invited to participate in a SST meeting if the need arises. These individuals become auxiliary team members. They are called as needed. Current educational literature reports increased utilization of outside professional especially with secondary level SSTs. Based upon the perceived need for establishing a building-level SST, the principal and/or team leader should develop; criteria for selecting prospective team members. Criteria should reflect interpersonal skills, group-processing skills, and consultation skills that are required for effective team participation. Some characteristics to consider might include:

- Desire to serve on the core team,
- Ability to work well with others,
- Resourcefulness,
- Ability to communicate,
- Knowledge of effective teaching strategies, and
- Area of specialization/subject area

Suggested Roles, Responsibilities, and SST Process

SST meetings are usually conducted in a limited amount of time and are very focused. Some teams choose to spend 10 minutes on each student; others may choose to focus an entire meeting on a single student. Therefore, each team member should be aware of his/her responsibilities and be prepared to participate actively. The SST leader's responsibilities focus primarily on management, facilitation and evaluation. The core team member's responsibilities focus on preparation, participation, and implementation.

- A. SST Leader/Coordinator/Chairperson: The chairperson of the SST meeting is often the building principal. In other instances, it may be a guidance counselor,

teacher on special assignment, or a grade level team leader. As a facilitator, she/he must project an attitude of commitment to the SST process. By doing so, the leader demonstrates his/her willingness to improve the quality of education for students and foster the professional growth and development of teachers. The chairperson must also ensure that the other team members have a clear understanding of the purpose of the team, the objective to be accomplished, and the expected outcomes. This sets the stage for establishing team member roles and expectations that contribute to effective team functioning. The SST leader guides the team and informs each team member of his/her responsibilities. In preparation for the initial SST meeting, there are several management tasks that the leader must accomplish. These tasks may be grouped into at least three categories:

- i. Preparing for the SST meeting
- ii. Facilitating the SST meeting
- iii. Monitoring meeting results

It is essential that the SST chairperson model for the staff and team members an enthusiasm for the SST process. Effective teams improve the lives of both students and teachers. SSTs are not an add-on; they can be a valuable component of any school design.

- B. **Intervention Monitor:** One team member should be selected to act as the intervention monitor for each case. This does not have to be the same person for every case since the intervention monitor is responsible for the intervention plan and progress monitoring/or overseeing the progress monitoring of the intervention plan. This creates an accountability system that is monitored and reviewed when the team comes together again for the SST Intervention Review meeting and supports the teacher(s) and intervention staff who will be working with the student. Any member of the SST or school staff can be the intervention monitor. Responsibilities include:
- i. Comparing baseline data to the progress of the student
 - ii. Assisting staff with the development and/or selection of a progress monitoring strategy
 - iii. Assisting with intervention fidelity
 - iv. Assuring data collection is being done
 - v. Consultation with teacher and/or intervention staff as needs
- C. **Core Team Members:** Team members are expected to use their knowledge regarding the teaching and learning process and student development to provide support to staff members who request the assistance of the SST. If the data is available before, team members should prepare for each meeting by familiarizing themselves with the case(s) to be discussed. Team members may be assigned specific tasks as an outcome of the meeting. Such task may include but are not limited to: observing a student, contacting parents, serving as a "buddy" for the requesting teacher, implementing specific activities with the student or the teacher, and/or recording the meeting minutes. Team members are expected to

provide suggestions that facilitate the problem solving process and carry out their responsibilities within the prescribed time limits.

- i. Discuss the problem
- ii. Remain on task
- iii. Conform to time constraints
- iv. Brainstorm
- v. Clarify
- vi. Make process contributions
- vii. Complete tasks
- viii. Evaluated strategies

- D. Preparing for the SST meeting: The SST chairperson is responsible for scheduling the SST meeting by confirming date, time, and location with team members. SST meetings can be conducted on a regular or emergency basis. If necessary, the team leader should arrange for class coverage for the requesting teacher and other team members. Again, the specific procedure used depends upon the flexibility of the building schedule and the availability of resources. It may be helpful for team members to receive notification of the meeting and the cases to be discussed through the dissemination of a memo or email.
- E. Conduction the SST meeting: The SST chairperson usually serves as the facilitator of the SST meetings. She/he may choose to develop a written agenda that can be useful as a guide and may be passed on to a newly formed team. As facilitator, the SST chairperson is responsible for ensuring that SST members contribute to the discussion and actively participate in a group process.

The SST chairperson should establish an atmosphere of collaboration by encouraging open communication among team members, exhibiting an attitude of trust, and helping team members build a positive team relationship. The SST chairperson should acknowledge and reinforce the positive contributions made by team members, encouraging them to focus on the positive characteristics and strengths of the student while attempting to identify strategies to address his/her difficulties.

- F. Recording and Monitoring Meeting Results: The SST chairperson can either serve as recorder for meeting or appoint a recorder. The responsibilities of the recorder should be clearly outlined. The recorder should document the pertinent discussion and outcomes of each SST meeting. This information may be used to monitor follow-up activities and thus provide evidence of the effectiveness of the attempted interventions. Record keeping and documentation foster accountability.
- G. Generating and Implementing Interventions: During the meeting, team members are expected to function as problem solvers in a sharing manner and actively participate in brainstorming. Team members are expected to be creative and resourceful in identifying strategies that assist students and help teachers. Team

members should be knowledgeable of community programs and services that may provide additional support for students and/or their families, if needed.

- H. *Collaborating with Colleagues:* Team members are expected to encourage collegial support, complete all tasks assigned during the meeting, and maintain open communications. In some cases, team members may be asked to implement interventions directly with the teacher by team teaching or some other collaborative effort, making themselves available to the teacher for support and/or assistance. Other situations may necessitate a team member making contact or collaborating with professional from the outside community.

A recommending teacher may choose to have the support of a SST member during the intervention phase of the plan. The support person together with the recommending teacher will:

- Assist in operationalizing the chosen intervention techniques
- Help in obtaining materials and developing resources
- Schedule meeting times to review the effectiveness of the intervention
- Request feedback from the recommending teacher as part of the follow-up activity

Maintaining the SST Records

This document is a suggested guide for SSTs. The most effective SSTs are individualized and unique, based on the needs of the school and its students. However, all schools must complete and maintain a SST summary documenting the reason that the SST was accessed, the intervention and the outcome/follow-up. This document should be kept in a separate file (similar to how schools manage discipline files). All SST documentary materials are school records and thus should be treated like any other educational record. SST working files are to be maintained in a professional manner.

Be sure individual school based SST procedures regarding confidentiality are in accordance with the Family Educational Right and Privacy Act (FERPA). Parents have access to any documentation involving their child, including their SST records. It is always a good idea to inform parents of the process for accessing student records. The actual means of notification (e.g., School Handbook) is left to each school to decide.

The AccelSST program provides forms and functionality that are consistent with the above recommendations.

Accessing the SST

Any school employee involved in the provision of educational services may request access to the SST for an individual student. Parents/guardians or community agencies may also access this team. Formal access to the SST must funnel through a building administrator or other building-based school professionals.

Suggested SST Steps

1. The recommending staff member notifies the SST chairperson that he/she is interested in accessing the SST for a particular student.
2. The chairperson should provide the teacher with access to AccelSST to complete web-based forms or provide him/her with paper-based copies of forms. In either instance, forms should be used for the purpose of collecting data on the student's current level of performance regarding the area of concern and on prior interventions or strategies used with the student in the classroom.
3. As much pertinent data as possible regarding the student is collected prior to the SST meeting (e.g., baseline data using curriculum-based measurement, English language learner background information, etc.).
4. After the forms have been completed, a SST meeting should be scheduled to discuss the case. Written notification is sent to all team members including the recommending person, stating the date and time of the meeting. If parents/guardians are requesting access to the SST for their child, all communication must be in a language they understand.
5. The SST meeting should focus on identifying and defining the area of concern, developing a goal, selecting an intervention and progress monitoring strategy, creating a plan for follow-up/review, and developing a support network.
6. The SST follow-up should focus on evaluating the effectiveness of the intervention and determining if further support from SST is needed. It is not unusual for a student's case to be recommended to another district program (i.e., ELD programs, Special Education or 504 plan), to an outside agency, or to be returned to SST for additional student support.

Evaluation of SSTs

An important component of any program or project is the evaluation. Evaluation provides an avenue for continual improvement. SSTs are action research. The involvement of SST members and SST recipients in evaluation activities serves to enhance program acceptability, integrity, and effectiveness. The components of a SST evaluation process might include:

- Assessment of reactions of SST recipients (program acceptability)
- Determination of the extent to which the SST's intervention was implemented as designed (program integrity)
- Evaluation of the SST intervention's efficacy- did the problem improve? (program effectiveness)

SECTION 2
APPENDIX A

Every school must have a SST. However, SSTs may look different at each school site in order to meet the unique needs of students.

Southwest SELPA
Intervention4Success
SST Checklists

Prior to Meeting

- Cumulative records reviewed
- Health records reviewed
- Attendance records reviewed
- Home language determined
- Student language status determined
- Previous educational history determined
- Previous teacher(s) contacted
- Other teacher(s) contacted
- Parent/guardian contacted
- Student observation/interview
- Work samples collected
- Classroom strategies implemented

What to Bring to the Meeting

- Cumulative file
- Current grades and work samples
- Current attendance records
- Classroom benchmark and curriculum based measurement scores
- Discipline summary

Southwest SELPA
Intervention4Success
Helpful Suggestions for Effective SST Meetings

Adapted from SFUSD School Health Programs Department SST Manual

- Speak with the parent/guardian in advance and let them know what to expect in the meeting
- Provide the teacher with information in advance about what to bring/share at the SST meeting
- Have appropriate translation when needed
- Begin with a positive remark and welcome all participants to the meeting
- Explain the purpose of the meeting
- Follow agenda or structure set by the team
- Set a positive tone for the meeting by recognizing a student's strengths before listing concerns
- Have a separate facilitator and SST form recorder
- Use specific samples of a student's work when explaining any strengths, weaknesses, or means of improvement
- Specific examples of a student's behavior should also be used to explain his/her level of development, socialization, and/or persona adjustment
- Explain any evaluation process including formal and informal
- Do not use "education" or "medical diagnosis" jargon
- Suggest, using concrete examples to parents/guardians of how they may help or support the student at home
- Prioritize concerns and action items
- Let parents/guardians ask questions
- Have school/district forms, such as release of information forms, community referral forms and other needed materials at the meeting
- Set the date for the follow up meeting before adjourning
- End the meeting with a summary of the intervention plan and a positive comment
- Thank parents/guardians for their participation
- Give copies or make online access available of completed forms to intervention staff

SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA

Triennial Evaluation Process

- Activity 1:** Develop the evaluation schedule.
- Activity 2:** Gathering and reviewing existing data.
- Activity 3:** Written notification to parents/legal guardians, request for consent/approvals and completion of any addition assessments determined to be needed or requested by parents/legal guardians.
- Activity 4:** Accountability and documentation.

This process is a significant change from the standard triennial assessment process. Previously, students completed a full battery of standardized assessments every three years. IDEA now requires staff to only utilize standardized assessment materials if data is not available from existing sources to determine a student's continued eligibility for special education and related services and to determine the educational needs of the student. Therefore, collecting data from teachers, parents, school psychologists and case carriers and if appropriate, DIS/related service providers, is now our most important step. Our goal is to determine how our students are actually functioning in the learning environment and how they are learning our curriculum rather than how they scored on a test. This actually takes more professional judgment and expertise; as well as more direct knowledge of the student.

These forms have been developed based on the requirements of the law (ED Code 56381) and have been approved for use. Parent/legal guardian in the following section may include: (Ed Code 56028)

1. The person having legal custody of a child
2. Any adult pupil for whom no guardian or conservator has been appointed
3. A person acting in the place of a natural or adoptive parent, including grandparent, step parent or other relative with whom the child lives.
4. Parent surrogate appointed by the district/SELPA.
5. Foster parent

Thanks to the many professionals who provided updates into the assessment process.

Activity 1: Developing the Evaluation Schedule

Establish an annual calendar of evaluations due during the school year on a month-to-month basis.

The SEIS data system can support the process. Calendars are needed at several levels:

- District wide list using CASEMIS.
- School level list for Principals.
- Psychologist's lists of assigned cases for consultation and DIS service provisions.
- Class/caseload list for teaching staff and DIS providers.

All staff share accountability for assuring evaluation is completed within three years.

*CASEMIS definition:

| | |
|-------------|--|
| Last Eval | Date of the latest determination if initial or continued eligibility for special education. |
| Definition: | For determination of continued eligibility in special education, if the IEP team reaches consensus that no additional assessment is necessary to confirm continued eligibility, then it is not necessary to hold another IEP team meeting to determine eligibility. In this case, the date such determination (consensus) shall be recorded and be reported in this field. If, however the IEP team doesn't reach a consensus on the need for additional assessment and /or additional assessment is conducted, then the IEP team may convene and make the determination of continued eligibility. In this case, the date of the IEP team meeting shall be recorded in this field. |

- California Special Education Management Information System.

Activity 2: Gathering and Reviewing Existing Data:

Timeline for activity: Approximately three months before the student's triennial evaluation is conducted.

Forms required for activity:

- Data Collection worksheet
- Triennial Input Form

Gather existing data from a variety of sources including the parent/guardian. General and special education teachers and DIS/related service providers shall complete brief reports. Report cards, state, school wide and classroom curriculum based assessments, IEP progress reports, classroom observations, parent input and outside assessment reports, medical reports, discipline records, and any other progress notes shall be reviewed and documented on the Data Collection Worksheet. This is the case carrier responsibility.

The school psychologist, teacher(s), and case carriers and if appropriate, DIS/related service providers review the data collected and based on their review and parent input determine if the additional assessment is needed and in what areas to determine the student's continued special education eligibility or plan for his/her educational program and services.

Following the completion of the formal assessment, a report in written reflecting the data collected. Copies of the worksheet and input forms are retained in the special education file along with the final report. Parents are provided a copy of the report and have access to the other records.

Final Report: Multi-disciplinary psycho-educational team reports are written in the same manner as any other assessment reports utilizing the collected data. Reports need to include an eligibility statement. District formats vary within the SW SELPA but contain necessary components, such as reason for referral, observations, medical/school history, etc. It is recommended that all professional sign the report reflecting their input provided via data collection.

In order for "No Additional Assessment: a "yes" answer is needed on all the questions in the chart listed below. These questions are embedded in the "Triennial Input Form" and the case carrier will need to review the input. A "no" answer on any question may result in formal assessment procedures. A parent may always elect to have a complete formal or standardized assessment.

SECTION 2
APPENDIX B

| | Yes | No |
|--|-----|----|
| 1. Does sufficient data exist to determine whether the student continues to have disability? | | |
| 2. Does sufficient data exist to define the student's present levels of performance and educational needs? | | |
| 3. Does sufficient data exist to determine whether the student continues to need special education and related services? | | |
| 4. Does sufficient data exist to determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and to participate as appropriate in the general education curriculum? | | |

Activity 3: Written Notification to Parents/Legal Guardian, Request for Consent/Approvals and Completion of any Additional Assessments (determined, needed or requested by parents/guardians)

Timeline for activity: Approximately 75 calendar days prior to triennial due date.

Forms required for activity:

- Parent Notification Letter (No Additional Assessment)
- Parent Notification Letter (Additional Assessment Required)
- Draft Assessment Plan (as appropriate)

The case carrier selects the appropriate letter and forwards to the parent/guardian. Copies are returned and placed in the file.

In the event the parent requests additional assessment or if the IEP tem and other qualified professionals, as appropriate, a draft assessment plan must be completed and sent to the student's parents/legal guardian for signatures with the district's general cover letter and parent right booklet.

Please note:

Before students can be determined "no longer eligible" for special education and related services, a re-assessment must be conducted.

Activity 4: Accountability and Documentation

1. Provide parent/legal guardian with copy of the triennial evaluation report in a timely manner. Indicate this on the IEP (narrative).
2. Provide triennial evaluation data as specified in SEIS/CASEMIS district manager
3. Translate documents as requested.
4. Assure that recommendations have been addressed in the IEP and document in case file and/or teacher file.
5. Assure that the evaluator reflects the multi-disciplinary evaluator requirements. Recommend that all professional sign the summary report.
6. Ensure and maintain confidentiality of records
7. File evaluation report in district office file
8. Log contacts with parents/legal guardians.
9. Assure that Parent Rights booklets were provided with draft assessment plan at IEP meeting. Document accordingly.
10. IEP documentation:
 - ❖ For LD students, complete certification form (SEIS)
 - ❖ For Low Incidence students, complete section on SEIS form
 - ❖ For ELL students, complete ELL for (SEIS)
 - ❖ For pupils with behavioral needs, complete Behavior Support Plan form (SEIS)

SOUTHWEST SELPA
Triennial Evaluation
Data Collection Worksheet

Case Carrier: _____
Student: _____ Date of Birth: _____
School: _____ Tri-ennial Date: _____

Triennial Input Forms (completed by and attached)

General Education Teacher: _____

Special Education Teacher: _____

DIS: _____: _____

DIS: _____: _____

DIS: _____: _____

1. Parent/Legal Guardian Input: (one direct contact required)

Phone contact: date: _____ Parent/Guardian contacted: _____

Parent/Guardian contacted: _____

Conference: date: _____ Parent/Guardian contacted: _____

Parent/Guardian contacted: _____

2. School Records review: (attach reports)

_____ Disciple records

_____ Health Records

_____ Report Card

_____ Attendance

_____ Grades

_____ Intervention Programs

3. Vision/Hearing Screenings: _____ Vision –date _____ passed _____ failed

_____ Hearing –date _____ passed _____ failed

4. Other Data: (STAR, District Assessments, School/Site Curriculum Based measures, etc.):

5. Recommendation Based on Data Review:

_____ No formal assessment required.

Contact parent (see attached letter)

Note Refer to Tri-Input Forms Questions 2-4, must Be “yes” and question 5 a “no” to recommend “no formal assessment”.

_____ Partial assessment required.

Develop draft assessment plan in the areas of suspected disability and send to parent/guardian.

Suspected areas(s):

_____ Full assessment required.

Develop draft assessment plan in the areas of suspected disability and send to parent/guardian.

Suspected areas(s):

6. Report Requirements:

Psycho-educational assessment report shall include all data collected as well as any standardized assessments results. Eligibility statement and description of unique needs and recommendations should be included.

Signature: _____ Date: _____

Retain worksheet and attached reports in the district special education file. Retain copies of all documents sent to parent. Parent rights should be provided in all mailings.

SOUTHWEST SELPA
Triennial Input Form

Instructions: Please complete and return to : _____ by: _____

Note: Parents/legal guardians have access to this form

Thank you!

Student _____

D.O.B. _____

Grade: _____

School: _____

Person completing form: _____ : Title: _____

1. What services do you provide on subjects taught for this student?

2. Do you believe this student continues to have disability? ____ yes ____ no

3. Do you believe this student continues to need special education and related services?

____ yes ____ no

Comments:

4. Are existing accommodations/and/or modifications sufficient to hold the student access learning or additional accommodations and/or modifications necessary?

_____ yes, existing are sufficient _____ no, additional are required.

Comments:

5. What is this student's current level of functioning related to you teaching areas?

(below grade level, at grade level, above grade level)

6. Do you require additional information and would request assessment for this child?

_____ yes ____ no If yes,; indicate areas of suspected disability.

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7. Do you anticipate recommending service/placement changes for this student at the upcoming IEP?
_____ yes _____ no, If yes, please specify:

8. Does this student have any discipline or behavioral issues/concerns? _____ yes _____ no

9. Other comments:

Please sign and date:

Signature:

Date

Retain a copy for your records.

[DISTRICT LETTERHEAD]

Triennial Evaluation
(Additional Assessment Required)

VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AND FIRST CLASS MAIL Date: _____

[Name and Address of
Parent/Legal Guardian

Re: Student's Name: _____ DOB: _____

Dear Parent/Guardian:

Your child's three-year re-evaluation is approaching. The school psychologist, teacher(s), case carrier and, if appropriate, DIS/related services providers have reviewed the information already available to them about your child that is contained in your child's existing student records and feel that your child will continue to qualify for special education services as a student with exceptional needs. Based on this review, we have concluded that additional assessment is needed only in the areas identified on the attached draft assessment plan, as necessary to determine your child's continued special education eligibility or plan for his/her educational program and services.

In addition to the areas identified on the attached draft assessment plan, the three-year re-evaluation will consist of a review of your child's existing data, including his/her cumulative file, special education case file, academic portfolio/work samples, teacher reports, information provided by you, the parent/legal guardian, and classroom observation(s). In addition, a vision and hearing screening will be part of this assessment.

An individualized education program (IEP) team meeting will be scheduled for your child to discuss progress on goals, update present levels and goals and objectives, and plan your child's educational program for the next year. At this time, we do not anticipate recommending or offering a significant change in placement or services for your child/ward.

Although it has been determined that only the areas identified on the attached draft assessment plan is needed, if you feel that your child/ward requires additional testing at this time, you may request an assessment.

If you are in agreement with the determination that continued eligibility and educational planning decisions can be made about your child/ward with additional assessment only in the areas identified on the attached draft assessment plan, please indicate your agreement with this determination below by

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signing this form and the attached draft assessment plan, and return both documents to your child's case carrier within 15 days.

If you wish to request standardized testing for your child's three-year re-evaluation in addition to the areas identified on the attached draft assessment plan, please select that option below, indicate on the attached draft assessment plan the additional areas of assessment requested, sign this form and return both documents to your child's case carrier. Your proposed changes to the attached draft assessment plan will be considered and a revised draft assessment plan will be forwarded to you for your consideration and consent.

A copy of Parental Rights and Southwest SELPA Statement of Your Rights for Special Education is enclosed. If you have any questions, please call me at the number below between 8:00 am , and 5:00 p.m.

Sincerely,

| Name | Title | Telephone Number |
|------|-------|------------------|
|------|-------|------------------|

PARENT/GUARDIAN'S RESPONSE TO THREE-YEAR RE-EVALUATION

Please check only one:

I agree my child's three-year re evaluation requires only the areas of assessment identified on the draft assessment plan dated _____.

I request additional testing as part of my child's three-year re-evaluation in the following areas:

| Parent/Legal Guardian | Date | Telephone Number |
|-----------------------|------|------------------|
|-----------------------|------|------------------|

[DISTRICT LETTERHEAD]
Triennial Evaluation
(Additional Assessment Required)

VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AND FIRST CLASS MAIL Date: _____

Name and Address of
Parent/Legal Guardian

Re: Student's Name: _____ DOB: _____

Dear Parent/Guardian:

Your child's three-year re-evaluation is approaching. The school psychologist, teacher(s), case carrier and, if appropriate, DIS/related services providers have reviewed the information already available to them about your child that is contained in your child's existing student records and feel that your child will continue to qualify for special education services as a student with exceptional needs. Based on this review, we have concluded that additional assessment is needed only in the areas identified on the attached draft assessment plan, as necessary to determine your child's continued special education eligibility or plan for his/her educational program and services. Therefore, the three-year re-evaluation will consist of a review of your child's existing data, including his/her cumulative file, special education case file, academic portfolio/work samples, teacher reports, information provided by you, the parent/legal guardian, and classroom observation(s). In addition, a vision and hearing screening will be part of this assessment.

An individualized education program (IEP) team meeting will be scheduled for your child to discuss progress on goals, update present levels and goals and objectives, and plan your child's educational program for the next year. AT this time, we do not anticipate recommending or offering a significant change in placement or services for your child.

Although it has been determined that no additional assessment is needed, if you feel that your child requires additional testing at this time, you may request an assessment.

If you are in agreement with the determination that continued eligibility and educational planning decisions can be made about your child without additional assessment, please indicate your agreement with this determination, sign the attached form and return only this document to your child's teacher.

If you wish to request additional testing for your child's three-year re-evaluation, please select that option below, sign this form and return it your child's case carrier. A draft assessment plan will then be forwarded to you for consideration and consent.

A copy of Parental Rights and Southwest SELPA Statement of Your Rights for Special Education is enclosed. If you have any questions, please call me at the number below between 8:00 AM, and 5:00 PM

Sincerely,

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Name

Title

Telephone Number

(District Letterhead)

Special Education Department

PARENT/GUARDIAN'S RESPONSE TO THREE-YEAR RE-EVALUATION

Student Name: _____ D.O.B.: _____

School: _____

Please check only one:

I agree my child's three-year re evaluation does **NOT** require additional testing.

I request additional testing as part of my child's three-year re-evaluation.

Parent/Legal Guardian Date Telephone Number

Please return to: (name/address special education department/school)

STUDENTS EXHIBITING SERIOUS BEHAVIOR

In California there is an education code provision that mandates that students with serious behavioral issues be provided a functional analysis assessment and a development of behavior intervention plan (BIP).

A functional analysis assessment (FAA) request may be made when there is a serious concern about a special education student's behavior. These serious behavior problems include those that are deemed self-injurious, assaultive or cause property damage which could lead to a suspension or expulsion according to Education Code §48900

These behaviors also include those that are pervasive and maladaptive and require systematic and frequent application of behavior interventions. A Behavior Intervention Plan must be developed by the IEP team and a case manager identified prior to the implementation of the plan. Emergency interventions approved by the SELPA may be required to control unpredictable, spontaneous behaviors which pose a clear and current danger of serious physical harm to the student, others, or serious property damage which cannot be prevented without temporary application of safe emergency techniques to contain the behavior. The following are descriptions of the major components necessary to develop an appropriate Behavioral Intervention Plan. The Behavioral Intervention Plan is included as part of the student's IEP.

"*Behavioral emergency*" is the demonstration of a serious behavior problem: (1) which has not previously been observed and for which a behavioral intervention plan has not been developed; or (2) for which a previously designed behavioral intervention is not effective. Approved behavioral emergency procedures must be outlined in the special education local planning area (SELPA) local plan.

(d) "*Behavioral intervention*" means the systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. "Behavioral interventions" are designed to provide the individual with greater access to a variety of community settings, social contacts and public events; and ensure the individual's right to placement in the least restrictive educational environment as outlined in the individual's IEP. "Behavioral interventions" do not include procedures which cause pain or trauma. "Behavioral interventions" respect the individual's human dignity and personal privacy. Such interventions shall assure the individual's physical freedom, social interaction, and individual choice.

(e) "*Behavioral intervention case manager*" means a designated certificated school/district/county/nonpublic school or agency staff member(s) or other qualified personnel pursuant to subsection (ac) contracted by the school district or county office or nonpublic school

● or agency who has been trained in behavior analysis with an emphasis on positive behavioral interventions. The "behavioral intervention case manager" is not intended to be a new staffing requirement and does not create any new credentialing or degree requirements. The duties of the "behavioral intervention case manager" may be performed by any existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions, including, but not limited to, a teacher, resource specialist, school psychologist, or program specialist.

(f) "*Behavioral intervention plan*" is a written document which is developed when the individual exhibits a serious behavior problem that significantly interferes with the implementation of the goals and objectives of the individual's IEP. The "behavioral intervention plan" shall become part of the IEP. The plan shall describe the frequency of the consultation to be provided by the behavioral intervention case manager to the staff members and parents who are responsible for implementing the plan. A copy of the plan shall be provided to the person or agency responsible for implementation in non-educational settings. The plan shall include the following:

- (1) a summary of relevant and determinative information gathered from a functional analysis assessment;
- (2) an objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
- (3) the individual's goals and objectives specific to the behavioral intervention plan;
- (4) a detailed description of the behavioral interventions to be used and the circumstances for their use;
- (5) specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors; including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;
- (6) criteria by which the procedure will be faded or phased-out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;
- (7) those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings; and (8) specific dates for periodic review by the IEP team of the efficacy of the program.

Behavioral Intervention Plans

3052. (a) General Provisions.

(1) An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to an individual's behavioral intervention plan. When the behavioral intervention plan is being developed, the IEP team shall be expanded to include the behavioral intervention case manager with documented training in behavior analysis including positive behavioral intervention(s), qualified personnel knowledgeable of the student's health needs, and others as described in Education Code Section 56341 (c)(2). The behavioral intervention case manager is not intended to be a new staff person and may be an existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions.

(2) Behavioral intervention plans shall only be implemented by, or be under the supervision of, staff with documented training in behavior analysis, including the use of positive behavioral interventions. Such interventions shall only be used to replace specified maladaptive behavior(s) with alternative acceptable behavior(s) and shall never be used solely to eliminate maladaptive behavior(s).

(3) Behavioral intervention plans shall be based upon a functional analysis assessment, shall be specified in the individualized education program, and shall be used only in a systematic manner in accordance with the provisions of this section.

(4) Behavioral emergency interventions shall not be used as a substitute for behavioral intervention plans.

(5) The elimination of any maladaptive behavior does not require the use of intrusive behavioral interventions that cause pain or trauma.

(6) To the extent possible, behavioral intervention plans shall be developed and implemented in a consistent manner appropriate to each of the individual's life settings.

(b) *Functional Analysis Assessments.* A functional analysis assessment must be conducted by, or be under the supervision of a person who has documented training in behavior analysis with an emphasis on positive behavioral interventions. A functional analysis assessment shall occur after the individualized education program team finds that instructional/behavioral approaches specified in the student's IEP have been ineffective. Nothing in this section shall preclude a parent or legal guardian from requesting a functional analysis assessment.

Functional analysis assessment personnel shall gather information from three sources: direct observation, interviews with significant others, and review of available data such as assessment reports prepared by other professionals and other individual records. Prior to conducting the assessment, parent notice and consent shall be given and obtained pursuant to Education Code Section 56321.

(1) A functional analysis assessment procedure shall include all of the following:

(A) Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;

(B) Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;

(C) Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to identify the specific environmental or physiological outcomes produced by the behavior. The communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;

(D) Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider should include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other students, the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;

(E) Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet); and

(F) Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

(2) Functional Analysis Assessment Reports. Following the assessment, a written report of the assessment results shall be prepared and a copy shall be provided to the parent. The report shall include all of the following:

(A) A description of the nature and severity of the targeted behavior(s) in objective and measurable terms;

(B) A description of the targeted behavior(s) that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;

(C) A description of the rate of alternative behaviors, their antecedents and consequences; and

(D) Recommendations for consideration by the IEP team which may include a proposed plan as specified in Section 3001(f).

(c) IEP Team Meeting. Upon completion of the functional analysis assessment, an IEP team meeting shall be held to review results and, if necessary, to develop a behavioral intervention plan, as defined in Article 1, Section 3001(f) of these regulations. The IEP team shall include the behavioral intervention case manager. The behavioral intervention plan shall become a part of the IEP and shall be written with sufficient detail so as to direct the implementation of the plan.

(d) Intervention. Based upon the results of the functional analysis assessment, positive programming for behavioral intervention may include the following:

(1) Altering the identified antecedent event to prevent the occurrence of the behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum, removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the individual);

(2) Teaching the individual alternative behaviors that produce the same consequences as the inappropriate behavior (e.g., teaching the individual to make requests or protests using socially acceptable behaviors, teaching the individual to participate with alternative communication modes as a substitute for socially unacceptable attention-getting behaviors, providing the individual with activities that are physically stimulating as alternatives for stereotypic, self-stimulatory behaviors);

(3) Teaching the individual adaptive behaviors (e.g., choice-making, self-management, relaxation techniques, and general skill development) which ameliorate negative conditions that promote the display of inappropriate behaviors; and

(4) Manipulating the consequences for the display of targeted inappropriate behaviors and alternative, acceptable behaviors so that it is the alternative behaviors that more effectively produce desired outcomes (i.e., positively reinforcing alternative and other acceptable behaviors and ignoring or redirecting unacceptable behaviors).

(e) Acceptable Responses. When the targeted behavior(s) occurs, positive response options shall include, but are not limited to one or more of the following:

(1) the behavior is ignored, but not the individual;

(2) the individual is verbally or verbally and physically redirected to an activity;

(3) the individual is provided with feedback (e.g., "You are talking too loudly");

(4) the message of the behavior is acknowledged (e.g., "You are having a hard time with your work"); or

(5) a brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

(f) Evaluation of the Behavioral Intervention Plan Effectiveness. Evaluation of the effectiveness of the behavioral intervention plan shall be determined through the following procedures:

(1) Baseline measure of the frequency, duration, and intensity of the targeted behavior, taken during the functional analysis assessment. Baseline data shall be taken across activities, settings, people, and times of the day. The baseline data shall be used as a standard against which to evaluate intervention effectiveness;

(2) Measures of the frequency, duration, and intensity of the targeted behavior shall be taken after the behavioral intervention plan is implemented at scheduled intervals determined by the IEP team. These measures shall also be taken across activities, settings, people, and times of the day, and may record the data in terms of time spent acting appropriately rather than time spent engaging in the inappropriate behavior;

(3) Documentation of program implementation as specified in the behavioral intervention plan (e.g., written instructional programs and data, descriptions of environmental changes); and

(4) Measures of program effectiveness will be reviewed by the teacher, the behavioral intervention case manager, parent or care provider, and others as appropriate at scheduled intervals determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.

(5) If the IEP team determines that changes are necessary to increase program effectiveness, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, shall propose changes to the behavioral intervention plan.

(g) Modifications Without IEP Team Meeting. Minor modifications to the behavioral intervention plan can be made by the behavioral intervention case manager and the parent or parent representative. If the case manager is unavailable, a qualified designee who meets the training requirements of subsection (a) (1) shall participate in such modifications. Each modification or change shall be addressed in the behavioral intervention plan provided that the parent, or parent representative, is notified of the need and is able to review the existing program evaluation data prior to implementing the modification or change. Parents shall be informed of their right to question any modification to the plan through the IEP procedures.

(h) Contingency Behavioral Intervention Plans. Nothing in this section is intended to preclude the IEP team from initially developing the behavioral intervention plan in sufficient detail to include schedules for altering specified procedures, or the frequency or duration of the procedures, without the necessity for reconvening the IEP team. Where the intervention is to be used in multiple settings, such as the classroom, home and job sites, those personnel responsible for implementation in the other sites must also be notified and consulted prior to the change.

(i) Emergency Interventions. Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual or others and which cannot be immediately prevented by a response less

restrictive than the temporary application of a technique used to contain the behavior.

(1) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(2) Whenever a behavioral emergency occurs, only behavioral emergency interventions approved by the special education local planning area (SELPA) may be used.

(3) No emergency intervention shall be employed for longer than is necessary to contain the behavior. Any situation which requires prolonged use of an emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

(4) Emergency interventions may not include:

(A) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;

(B) Employment of a device or material or objects which simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and

(C) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(5) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following:

(A) The name and age of the individual;

(B) The setting and location of the incident;

(C) The name of the staff or other persons involved;

(D) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and

(E) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.

(6) All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(7) Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan.

(8) Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

(9) "Behavioral Emergency Report" data shall be collected by SELPAs which shall report

annually the number of Behavioral Emergency Reports to the California Department of Education and the Advisory Commission on Special Education.

(j) SELPA Plan. The local plan of each SELPA shall include procedures governing the systematic use of behavioral interventions and emergency interventions. These procedures shall be part of the SELPA local plan.

(1) Upon adoption, these procedures shall be available to all staff members and parents whenever a behavioral intervention plan is proposed.

(2) At a minimum, the plan shall include:

(A) The qualifications and training of personnel to be designated as behavioral intervention case managers, which shall include training in behavior analysis with an emphasis on positive behavioral interventions, who will coordinate and assist in conducting the functional analysis assessments and the development of the behavioral intervention plans;

(B) The qualifications and training required of personnel who will participate in the implementation of the behavioral intervention plans; which shall include training in positive behavioral interventions;

(C) Special training that will be required for the use of emergency behavioral interventions and the types of interventions requiring such training; and

(D) Approved behavioral emergency procedures.

(k) Nonpublic School Policy. Nonpublic schools and agencies, serving individuals pursuant to Education Code Section 56365 et seq., shall develop policies consistent with those specified in subsection (i) of this section.

(l) Prohibitions. No public education agency, or nonpublic school or agency serving individuals pursuant to Education Code Section 56365 et seq., may authorize, order, consent to, or pay for any of the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain;

(2) Releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;

(3) Any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;

(4) Any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, or which can be expected to cause excessive emotional trauma;

(5) Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subsection (i);

(6) Locked seclusion, except pursuant to subsection (i)(4)(A);

(7) Any intervention that precludes adequate supervision of the individual; and

(8) Any intervention which deprives the individual of one or more of his or her senses.



The Southwest SELPA believes that all students can learn.

Our mission is to support students at-risk and students in special education in achieving a high level of academic/functional performance according to national, state and local standards.

To assure this outcome, in coordination with it's 12 districts, charter schools and LACOE, the SELPA department will provide quality leadership, information, resources and support to students, parents, staff and community.

SELPA believes in preparing students, schools and communities for the realities of tomorrow.

SOUTHWEST SELPA
320 Knob Hill
Redondo Beach, California 90277
Phone: (310) 944-3217 Fax: (310) 944-3540
www.swselpa.org

Mary P. Ring
Director

What is a Special Education Local Plan Area (SELPA)?

In 1977, California state legislation required all school districts and county school offices to join to form geographical regions of sufficient size and scope to provide for all the special education service needs of children residing within the region boundaries. Each region (Special Education Local Plan Area – SELPA) developed a local plan describing how it would provide special education services.

Today there are approximately 116 SELPAs in the state of California, ranging in size from those serving fewer than 1,000 students to those serving more than 10,000 students. The Southwest SELPA is a multi-district SELPA that supports and coordinates special education services for 12,000 students residing in the 12 public school districts in the South Bay area.

Each SELPA must have an Administrative Unit (the Responsible Local Agency) that receives funds and is responsible for seeing that every eligible child receives appropriate services. In the Southwest SELPA, the administrative unit is the Los Angeles County Office of Education (LACOE).

The chief administrator of the SELPA is usually called a Director. The Director's responsibilities include:

- Ensuring program availability for all children with disabilities
- Curriculum / program development support
- Community Advisory Committee support
- Transition planning
- Interagency coordination
- Fiscal management
- Community awareness

The GOAL of the Southwest SELPA is to deliver high quality special education programs and services to the students with disabilities in the most effective, efficient, and cost-effective manner practicable.

Participating Districts:

Centinela Valley UHSD
El Segundo USD
Hawthorne SD
Hermosa Beach City SD
L.A. County Office of Education

Inglewood USD
Lawndale SD
Lennox SD
Manhattan Beach USD

Palos Verdes Peninsula USD
Redondo Beach USD
Torrance USD
Wiseburn SD
Local Charter Schools



SECTION 3

IDENTIFICATION AND
ASSESSMENT OF ENGLISH
LANGUAGE LEARNERS



IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS

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IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS

3.1 INTRODUCTION

This chapter was developed to provide SELPA and LEA staff members with a concise, practical, and sequential approach to the identification, assessment, and programs for students with disabilities, who are English learners (EL). When considering possible special education and related services, extreme care must be taken to avoid the over identification of students as having a disability, as well as the exclusion of English learners who may have a disability. With this in mind, two specific challenges are presented to educators:

1. To utilize appropriate assessment tools and procedures and to provide services in the least restrictive environment
2. To incorporate language and culture into a special education curriculum

All English learners must be properly identified. Identification includes the completion of the state-mandated Home Language Survey (HLS). The California English Language Development Test (CELDT) or Alternate Proficiency Instrument (ALPI) is administered to determine English proficiency. These assessments are to be done within 30 school days of initial enrollment and the primary language will be assessed within 90 calendars of initial enrollment.

The CELDT has three purposes: (1) to identify students who are limited English proficient; (2) to determine the level of English language proficiency of students who are limited English proficient; and (3) to assess the progress of limited English proficient students in acquiring the skills of listening, reading, speaking, and writing in English. All ELs must be administered the CELDT annually. There are no parent waivers for taking CELDT.

The ALPI is used for students with severe disabilities to provide a primary language assessment in receptive and expressive language. Deaf and hard of hearing student may be informally assessed in American Sign Language (ASL). The student's IEP includes scores or levels in each of the assessments.

3.2 IDENTIFICATION AND REFERRAL OF ENGLISH LEARNERS SUSPECTED OF HAVING A DISABILITY

Procedures for Identification and referral for special education and related services for all students are described in Chapter 1.

3.3 SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL

Unless the student has a severe disability, including but not limited to severe vision and hearing impairments, severe physical impairment, severe mental retardation, autism, or severe health impairment, the student should be allowed sufficient time to acquire English proficiency and receive appropriate academic instruction in English language arts and math. It is critical to differentiate between a student who is not achieving in the classroom because English is not his/her primary language and a student who is not achieving due to a disability.

Following are some relevant sections of state and federal law that are particularly important in determining eligibility for special education instruction and services:

Education Code (EC) 56303: "A pupil shall be referred for special education instruction and services only after the resources of the regular education program have been considered, and when appropriate, utilized"

California Code of Regulations (CCR), Title 5 3023 (b) "The normal process of second language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition"

Federal Code of Regulations (CFR) a 300.534: "A child may not be determined to be eligible....if (i) the determinant factor for that eligible determination is ...1) lack of instruction in reading or math, or (2) limited English proficiency ... and (ii) the child does not otherwise meet the eligibility criteria under 300.7"

3.4 STUDENT SUCCESS TEAM (SST)

The Student Success Team is designed to offer immediate assistance and suggestions for teachers, parents and support staff for an individual student who is not making progress or exhibiting various types of problems in the classroom and/or school. Through effective utilization of this team, many identification errors can be avoided. The Student Study Team serves as a group of professionals and parents, who will discuss pupil strengths and problems and possible interventions.

3.4 A. SST Team Members

Members of the team may include the following:

- At least one regular education teacher
- Bilingual personnel

- Principal or administrator
- Parent
- Special education specialist
- School psychologist
- School nurse
- Counselor or specialist
- Speech/language pathologist
- Interpreters (as needed)
- Student (as appropriate)
- Others

3.4 B. Student Study Team Responsibilities

Referrals for special education assessment may be processed through the Student Success Team. The SST will review the student's strengths, concerns, prior interventions and modifications that have been considered, and/or utilized. The results of the interventions will be documented. A plan will be developed, listing additional interventions, and the individuals responsible for implementing them with a follow-up date to review the pupil's progress.

When a student who is an English learner is referred to the school site's SST, the first step is to gather information regarding the specific difficulty the student is experiencing. The second step is to look at why the student is having this difficulty. When gathering information about the specific difficulty an English learner is experiencing, there may be a tendency to describe general performance behaviors, such as, "The student is not making progress," "The student is below grade level," "The student is having problems reading," etc. Statements such as these do not describe the specific difficulty that has been observed, which then makes it difficult to design appropriate interventions. In addition, not knowing the specific difficulty an English learner is experiencing makes it a challenge to determine if the perceived weakness is due to extrinsic factors (e.g. inappropriate instruction, normal process of second language acquisition, lack of formal education, etc.) or a possible intrinsic factor (such as a learning disability, language disorder, etc.)

When describing the specific difficulty the English learner is experiencing, the difficulty needs to be measurable and observable. In addition, data needs to be collected about the identified difficulty across different contexts (such as different subject areas), in different environments (such as home and school), and in both the primary language and English.

After identifying what specific difficulty the student is experiencing, the next step is to find out why the student is having this difficulty. If an English learner

is experiencing difficulties only in English, but not in the primary language, then the problem could be due to extrinsic factors rather than an intrinsic disability.

3.5 ASSESSMENT PROCEDURES FOR ENGLISH LEARNERS

After interventions have been tried and programmatic changes have occurred, some students, who have been referred to the SST will need a special education assessment. Special education assessment requirements for students whose primary language is other than English are included in this section.

3.5 A. Psycho-Educational Assessments

Assessment requirements important to English learners include the following:

1. Assessments with pupils of limited English proficiency shall be administered in the child's native language or mode of communication, unless clearly not feasible to do so (EC 56320, EC 56001).
2. Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected. (CCR, Title 5: 3023)
3. Materials are selected and administered so as not to be racially, culturally or sexually discriminatory (EC 56320, EC 56001).
4. A variety of assessment tools and strategies will be used to gather relevant functional and developmental information, including information provided by the parent (EC 56320).
5. No single procedure is used as the sole criterion for determining an appropriate educational program for an individual child (EC 56320, EC 56001).

The assessment team may include, but is not limited to:

1. School psychologist
2. Speech/language pathologist
3. Regular education teacher(s)
4. Special education specialist
5. School nurse
6. Bilingual specialist

7. Principal/vice principal/counselor
8. Parent

3.5 B. Other Procedures for Gathering Information

It is necessary to review existing procedures and their applicability for appropriate identification and instructional planning. Appropriate standardized tests are often not available in all languages. A broader variety of methods are necessary to obtain the information needed to determine if the referred student is, in fact, an individual with a disability.

Following is a brief overview of four assessment procedures.

1. Norm-referenced Tests: The norm-referenced test measures an individual's performance in relation to others on the same instrument. Key words often associated with this type of testing include: reliability, validity, and standardization. When using this type of test, it is critically important that the pupil being tested comes from a background (e.g., language, socioeconomic status) similar to that of the pupils on which the norms were derived is questionable. This often is the case with English learners.

2. Criterion-Referenced Tests: The criterion referenced test breaks down an area and measures what a student can do on each task in that area. No comparison of one student's performance with the performance of the group can be made. This type of testing gives yes/no answers to instructional questions (e.g. Can the student tell time by the ½ hour?) With this information, curricular suggestions can be made leading to specific goals and objectives.

3. Systematic Observation: This alternative assessment encourages the direct study of the referred student in a wide variety of settings. In systematic observation, one selects a specific behavior to observe, selects an appropriate measuring technique, depicts what is seen in the observation, and makes interpretations. Since the student is in his/her natural environment, it is possible to obtain a better picture of what the student is actually doing while using his/her own peer group as a backdrop. However, the presence of an observer may alter the environment and thus affect the validity of the behavior observed.

4. Structured Interview: This alternative assessment technique provides for a broad range of information collection. It is designed to incorporate the expectations and concerns of all those who are associated with the referral. Additional, interview based assessments allows for the funneling of information and expectations into the formal assessment system.

3.5 C. Additional Assessment Guidelines

Following are additional guidelines to consider when assessing a student with limited English proficiency:

- Assess language dominance at time of referral or evaluation by regular education personnel.
- Whenever possible use two language dominance tests to establish functioning information.
- Assess in student's dominant language whenever possible.
- Assess using non-language measures (e.g., performance).
- Use a trained interpreter whenever needed.
- Assess achievement in both primary language and English.
- Do not accept scores on translations of tests as valid; use other, non-biased or non test based measures to support the scores. (Document!)
- Assess adaptive behavior, mindful of different cultural norms.
- When considering the presence of a language disability, consider whether primary language is deficient when compared to peers and school population. Is language generally depressed (common in low socioeconomic populations) or are there significant peaks and valleys? Is there evidence of a true language disability?

3.6 PROGRAM OPTIONS

All students in need of special education and related services, including students identified as English learners, are to be served under the requirements of current state and federal law.

Districts need to offer appropriate resources to ensure that each English learner with a disability receives appropriate *educational and linguistic opportunities in the least restrictive environment*. A full continuum of program options will be available to each student with a disability. To the maximum extent appropriate, children with disabilities are educated with their typically developing peers.

A full continuum of program options include, but are not limited to the following:

1. Regular education program with specially designed modification.
2. Regular education program majority of the day with some special education specialist or resource specialist support
3. Regular classroom with specialized academic instruction for the majority of the day from SDC/and or special education specialist and/or related services support.
4. Special classes and centers.
5. Nonpublic schools
6. State special schools
7. Residential placement
8. Home/Hospital

3.6 A. Specific Program Options for English Learners

There are three different types of programs for English Learners. All programs include daily English Language Development (ELD) instruction along with self-image and cross-cultural instruction that is integrated throughout the subject area. Each program focuses on the development of speaking, listening, reading, and writing skills to develop second language literacy in English. Below is a list of programs offered along with a brief summary of components for each program.

Structured English Immersion

1. Reading taught in English
2. Core curriculum taught in English
3. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help with understanding
4. Daily English Language Development (ELD) instruction
5. Self-image and cross-cultural instruction is integrated throughout subject areas
6. May include some primary language support to help with understanding

English Mainstream

1. Reading taught in English
2. Core curriculum taught in English
3. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help understanding
4. Daily English Language Development (ELD) instruction
5. Self-image and cross-cultural instruction is integrated throughout subject areas

Alternative Program

1. Develops literacy in primary language first
2. Core curriculum taught in primary language while student is acquiring English
3. Daily English Language Development (ELD) instruction
4. Gradual transition from primary language to English in reading and core subject matter

5. Self-image and cross-cultural instruction is integrated throughout subject areas

Students may receive primary language support and/or language development services in any of the above program options, when determined appropriate by the IEP team.

3.7 IEP DEVELOPMENT FOR ENGLISH LEARNERS WITH DISABILITIES

IEP Teams should ensure that:

- IEPs include linguistically appropriate goals and objectives, including when necessary use of the student's primary language;
- Necessary documentation and translation services are provided to parents as needed; and
- Teachers providing the students the district's core curriculum are appropriately certified.

Other requirements include:

- Qualified teachers
- Sufficient and appropriate basic and supplemental resources to ensure access to the district's core curriculum.
- When possible translation of required parent notifications/documents, including IEP parent rights to inform and involve parents of EL students, and translation services as required by state and federal laws.
- Opportunities for parents to become members of the district and/or school advisory committees.

3.7 A. LINGUISTICALLY APPROPRIATE GOALS, OBJECTIVES, AND PROGRAMS

CCR, Title 5, Section 3001 (s): *"Linguistically appropriate goals, objectives, and programs means those activities which lead to the development of English language proficiency; and those instructional systems either at the elementary or secondary level which meet the language development needs of the limited English language learner. For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311(c), including a program provided in the individual's primary*

language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

In California, it is recommended that linguistically appropriate goals be aligned to the California English Language Development Standards. The California English Language Development Standards are available for downloading at www.cde.ca.gov/be/st/ss/index.asp

- Kindergarten – grade 2
- Grades 3 – 12, literate in their primary language
- Grades 3 – 12, not literate in their primary language

The CDE EL Standards Book further clarifies that “students who enter California schools in those grade levels not literate in their primary language need to be taught the ELD literacy standards for earlier grade levels, including those standards related to phonemic awareness, concepts of print and decoding skills.”

3.7 B. IEP CONSIDERATIONS FOR ENGLISH LEARNERS

Linguistically appropriate goals and objectives have the following characteristics:

- They are appropriate for the cognitive level of the student.
- They are appropriate for the linguistic level of the student.
- They match the developmental level of the student’s primary (L1) or secondary (L2) language.
- They match the student’s general education transition criteria and re-designation policy.

3.7 C. ADDITIONAL LINGUISTIC AND CULTURAL CONSIDERATIONS

Culturally appropriate goals and objectives have the following characteristics:

- They access the student’s prior knowledge and experiences.
- They incorporate culturally relevant materials and experiences.
- They affirm the student’s cultural heritage.

3.7 D. IEP ACCOMMODATIONS & MODIFICATIONS

The IEP should stipulate appropriate accommodations and/or modifications that may be needed to assist the student who is an English learner be successful in an educational setting.

Examples of accommodations that may be appropriate to consider for students learning English may be but are not limited to the following:

- Primary language support to assist with academics
- Translation devices

- Extra time on tests and assignments
- Use of reference materials with visuals to aide comprehension
- Bilingual dictionary if applicable to second language

Examples of modifications that may be appropriate to consider for students learning English may be but are not limited to the following:

- Tests provided or adapted to be more “comprehensible”
- Tests and assignments modified in length and content
- Alternative testing formats such as use of visuals, drawings, etc.

3.7 E. IEP CHECKLIST FOR ENGLISH LEARNERS

- The IEP indicates if the student is classified as an English learner
- The IEP includes information about the student’s current level of English language proficiency in listening, speaking, reading, and writing (based on current CELDT or alternative assessment scores/levels)
- The IEP indicates if the student is going to take CELDT or requires an alternate assessments to CELDT and, if so, what the alternate assessment(s) utilized will be
- The IEP indicates which testing accommodations or modifications the student may utilize for CELDT
- The IEP indicates how English language development (ELD) needs will be met and who will provide those services
Note: Indicate the setting, duration and frequency
- The IEP indicates if primary language support is needed
- The IEP indicates what language will be the language of instruction
- The IEP includes goals and objectives that are linguistically appropriate

Linguistically appropriate goals should align to the student’s assessed level on the CELDT (or designated alternate assessment) and the CDE English Language Development (ELD) Standards.

NOTE: For additional information, refer to Appendix A for the Table of Contents of Meeting the Needs of English Learners with Disabilities Resource Book by Janice Butterfield, Santa Barbara County SELPA on behalf of the State SELPA Association Revised 3/1/12.

Meeting the Needs of English Learners with Disabilities Resource Book

By

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On Behalf of the State SELPA Association
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This resource book provides regular and special educators information and resources regarding best practices and regulatory requirements for identifying, providing services, and reclassifying English Learners with disabilities. This publication was designed and written to provide the most current and accurate information in regard to English Learners and Special Education known to date in the State of California. It is distributed with the understanding that neither the authors nor the State SELPA Directors' Organization is engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of an appropriate professional should be solicited.

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SECTION 4

SPECIAL EDUCATION
ELIGIBILITY CRITERIA



SPECIAL EDUCATION ELIGIBILITY CRITERIA

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SPECIAL EDUCATION ELIGIBILITY CRITERIA

4.1 INTRODUCTION

The purpose of this chapter is to define the specific processes and procedures involved in determining a student's need to receive special education and related services. It is not meant to determine instructional setting or placement. Those determinations are made by the IEP team based on identified student needs.

The determination of eligibility must be based on the findings of a multidisciplinary assessment where no single test or single observer is the sole determining factor. The IEP Team must assure that the student's academic needs cannot be met through modifications of the regular education program and that the disability, even with corrections and modifications, adversely affects the individual's educational performance. The IEP team must also assure that all areas of suspected disability have been assessed. There shall be further documentation that race, cultural differences, economic disadvantage, language background, limited school experience and poor attendance are not primary contributing factors to the results of the assessment. The IEP team will determine eligibility, present levels of performance, areas of need and goals that address each area of need. Goals and (objectives if required) will be supported by appropriate services in the least restrictive environment as determined by the IEP Team for the child to receive educational benefit.

4.2 PRIOR TO REFERRAL FOR SPECIAL EDUCATION

The Student Success Team (SST), or the referring instructional personnel, shall document that accommodations/modifications of the regular program have been attempted and that the results of those modifications have not been effective in meeting the student's need for an appropriate education. Students shall be referred for special education and related services only after the resources of the regular education program have been considered and, where appropriate, utilized. The Student Success Team (SST) is a regular education function. It is a process of reviewing individual student issues pertaining to educational performance and planning instructional interventions to be implemented in the regular classroom.

Although specialists, such as school psychologists, speech/language pathologists, and resource specialists may be involved in the SST process, the SST is not a special education function and as such is not subject to the associated restrictions and timelines.

A special education referral may be appropriate after interventions have been implemented.

4.3 REFERRAL

All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, staff of the school district or special education local plan area shall offer assistance to the individual in making a request in writing, and shall assist the individual if the individual requests such assistance.

All school staff referrals shall be written and include:

- (1) A brief reason for the referral.
- (2) Documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay time lines for completing the assessment plan or assessment. (C.C.R., Title 5, Sec. 3021)

4.4 ASSESSMENT

The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

- (a) Whether the pupil may need special education and related services;
- (b) The basis for making the determination;
- (c) The relevant behavior noted during the observation of the pupil in an appropriate setting
- (d) The relationship of that behavior to the pupil's academic and social functioning;
- (e) The educationally relevant health and development, and medical findings, if any;
- (f) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate and;
- (g) The need for specialized services, materials, and equipment for the pupils with low incidence disabilities. (EC 56136)

Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and

ethnic background of the pupil. (C.C.R., Title 5, Sec. 3023) If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall:

Document this condition and note that the validity may have been affected and;

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition.

The assessment of a student, including a student with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment. (EC 56136)

4.5 ELIGIBILITY CRITERIA

A student qualifies as an individual with exceptional needs, if the results of the assessment demonstrate that the degree of the student's impairment requires special education and related services. The decision as to whether or not the assessment results demonstrate that the degree of the student's disability requires special education shall be made by the IEP team, including assessment personnel. The IEP team shall take into account all the relevant information that is available on the student. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the student's eligibility for special education. (EC 56220 (a) 56026, 56320, 3030 (a through j) 56361 56341 (d))

Eligibility Criteria are separated into thirteen federal classifications. Students need only to meet eligibility under one of these federal classifications. (34 C.F.R., Part 300.7.)

4.5 A. Three Primary Factors Must Be Considered

Three primary factors must be considered in making this determination:

1. Does the student meet the eligibility criteria as an individual with a disability?
2. Does the severity of the disability have an adverse effect on the student's educational performance?
3. Does the student require special education and services to achieve a free appropriate public education?

4.5 B. Special Rule for Eligibility Determination

In making a determination of eligibility, a child shall not be determined to be a child with a disability if the determinant factor for such determination is:

(A) Lack of appropriate instruction in reading, including the essential components of reading instruction.

(B) Lack of instruction in math; or

(C) Limited English proficiency (EC 56333-56339; 5 CCR 3030; CFR 300.7, 300.534)

4.5 C. Evaluations Before Change in Eligibility

1. A LEA shall evaluate a student with a disability before determining that the student is no longer a child with a disability.

2. Exception

A. The evaluation shall not be required before the termination of a student's eligibility due to graduation from high school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education. However a Prior Written Notice is required.

4.6 SEVERE DISABILITIES AND NON-SEVERE DISABILITIES

Students meeting eligibility under some of the above federal classifications are considered to be severely disabled as follows:

"Severely disabled" means individuals with exceptional needs who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe mental retardation, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils under Chapter 6 (commencing with Section 56800) of this part, as it read on January 1, 1980. (E.C., Sec. 56030.5)

4.7 ELIGIBILITY CATEGORIES

4.7 A. AUTISM (AUT): A severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

- (1) A pupil exhibits any combination of the following autistic-like behaviors, to include but not be limited to:
- (2) An inability to use oral language for appropriate communication.

- (3) A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood.
- (4) An obsession to maintain sameness.
- (5) Extreme preoccupation with objects or inappropriate use of objects or both.
- (6) Extreme resistance to controls.
- (7) Displays peculiar motoric mannerisms and mobility patterns.
- (8) Self-stimulating, ritualistic behavior.

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. C.F.R. 300.7 (c) (1)

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information includes all of the following:

- A written report from a school psychologist or other person with experience and training in working with autistic individuals.
- A written report from a speech/language pathologist addressing verbal and non-verbal communication skills.
- Assessment/observation which indicates that the behavioral manifestations are so severe that the student requires intensive special education and/or related services.

4.7 B. DEAF-BLINDNESS (DB): A severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

Combination of which causes severe communication, developmental, and educational problems.

C.F.R. 300.7 (c)(2)

Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information includes all of the following:

- The effect of the disability on communication, social, emotional, physical, educational, and other areas of development.
- Current audiological measures of auditory functioning which documents a hearing loss, with and without amplification, as determined by a qualified audiologist.
- Performance which reveals significant dysfunction directly related to the physical impairment.
- A written report of an eye examination by either a physician or an optometrist which states that the student's central visual acuity is 20/200 or less. Assessment of receptive and expressive communication skills and current education in the better eye after best correction with conventional spectacle lenses, or visual acuity is better than 20/200 if there is a field defect in which the widest diameter of the visual field is no greater than 20 degrees.

4.7 C. DEAFNESS (D): A severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

A pupil has a hearing impairment whether, permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

C.F.R. 300.7(c)(3)

Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's education performance.

Deafness: This hearing impairment is so severe that an individual is impaired in processing linguistic information through hearing with or without amplification. This condition adversely affects expressive or receptive communication or both, developmental growth, and/or educational performance.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information to be considered includes:

- Current audiological measures of auditory functioning with and without amplification as determined by a qualified audiologist.
- Current assessment of receptive and expressive communication skills and current educational performance reveals significant impairment.

4.7 D. HEARING IMPAIRMENT (HI): A severely or non-severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

A pupil has a hearing impairment, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

C.F.R. 300.7 (c)(5)

Hearing impairment means an impairment in hearing whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

Hard of hearing: This hearing impairment, whether permanent or fluctuating, adversely affects an individual's expressive and/or receptive communication, developmental growth, and/or educational performance and makes difficult, but does not preclude, the processing of linguistic information through hearing, with or without amplification.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information to be considered includes:

- Current audiological measures of auditory functioning with and without amplification as determined by a qualified audiologist.
- Current assessment of receptive and expressive communication skills and current educational performance reveals significant impairment.

4.7.E INTELLECTUAL DISABILITY (ID): A severely or non-severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

A pupil has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affect a pupil's educational performance.

C.F.R. 300.7(c)(6)

Intellectual Disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

IMPLEMENTATION PROCEDURES

A student shall be assessed by a multi-disciplinary team. Relevant information to be considered shall include all of the following:

- The determination of a significant discrepancy (minimum of two standard deviations) between chronological age and ability level, as determined by a credentialed school psychologist.
 - An adaptive behavior measure administered by a school psychologist.
- A report by a school psychologist of an observation of the student in the home and/or school situations to confirm that the student's adaptive behavior is significantly below the expectancy level for chronological age. The report shall describe the observed behavior, the environment in which the behavior occurred, culturally appropriate peer and adult interactions, and any other factors relevant to adaptive behavior.
- A developmental history and current medical history including vision and hearing testing.
- The cumulative results, from the multi-disciplinary team, of the examinations and observations investigating such factors as health and developmental history, language development, school achievement, adaptive behavior, and psychological processing substantiate individual

test scores indicating mild, moderate or profound delays in overall levels of functioning. These results must verify the need for an educational program which emphasizes, but is not limited to, the development of some or all of the following:

- Self-help skills
- Environmental awareness
- Survival skills
- Self sufficiency
- Communication/language
- Economic usefulness (work skills, vocational education)
- Independent or semi-independent living skills

The IEP Team shall document that other factors such as racial, cultural, and language background are not major contributing factors to the results of the assessments.

4.7 F. MULTIPLE DISABILITIES (MD): A severely disabling condition.

Definition:

34 C.F.R. 300.7 (c)

"Multiple disabilities" means concomitant impairments (such as intellectual disability-blindness, intellectual disability orthopedic impairment, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

IMPLEMENTATION PROCEDURES

A pupil shall be defined as having multiple disabilities when the IEP team determines that the pupil has two or more concomitant disabilities and the combination of disabilities requires unique modifications and support. A written report by a school psychologist shall include an assessment on adaptive behaviors.

4.7 G. ORTHOPEDIC IMPAIRMENT (OI): A severe or non-severe disabling condition.

Definition:

C.C.R., Title 5, Sec 3030 (e)

A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

C.F.R. 300.7(c)(8)

Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, poliomyelitis, bone tuberculosis, etc.) and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

IMPLEMENTATION PROCEDURES

A student shall be assessed by a multi-disciplinary team. Relevant information to be considered includes:

- Observation/assessment by a person with knowledge of orthopedic disabilities, who is trained to select, administer and interpret assessments that accurately measure the abilities of the student.
- A review of medical records which document a diagnosis of physical impairment which may adversely affect educational performance, such as any of the following:
 - Cerebral Palsy
 - Poliomyelitis
 - Infections, including but not limited to, bone and joint tuberculosis and osteomyelitis
 - Congenital anomalies including, but not limited to, amputation, clubfoot, dislocations, or spinal bifida
 - Birth injury, including but not limited to, Erb's palsy and fractures
 - Trauma, including but not limited to, amputations, burns or fractures

- Tumors, including but not limited to, bone tumors or bone cysts
- Developmental diseases, including but not limited to, coxaplanga or spinal osteochondritis
- Other conditions, including but not limited to, fragile bones, muscular atrophy, muscular dystrophy, Perthe's disease, or juvenile rheumatoid arthritis

4.7 H. OTHER HEALTH IMPAIRMENT (OHI): A severe or non-severe disabling condition.

Definition:

C.C.R., Title 5, Sec 3030

A pupil has limited strength, vitality or alertness, due to chronic or acute health problems which adversely affects a pupil's educational performance. In accordance with Section 56026 (e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Section 3001 (v).

C.F.R. 300.8 (c)(9): Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that –

- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and Tourette Syndrome, and (ii) adversely affects a child's educational performance.

IMPLEMENTATION PROCEDURES

Student shall be assessed by a multidisciplinary team. Relevant information includes the following:

- The school nurse shall provide the IEP team with specific medical information related to physical limitations and their projected duration.

- Qualified assessors shall include in reports the results of observations within the regular program.
- For students with ●HI/diabetes, a written statement from the child's physician as well as a written statement from the child's parent are required before either a school nurse or other designated personnel may assist a child with the administration of medication. Therefore decisions about what health care services a student will receive, including treatment while at school, such as the timing and dosage of insulin to be administered usually are based on the treating physician's written orders.

4.7 I. EMOTIONAL DISTURBANCE (ED): A severely or non-severely disabling condition.

Definition:

C.C.R., Title 5, Sec. 3030

Because of a emotional disturbance, a pupil exhibits one or more of the following characteristics over a long period of time and to a marked degree, which adversely affect educational performance:

- (1) An inability to learn which cannot be explained by intellectual, sensory, or health factors.
- (2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (3) Inappropriate types of behavior or feelings undernormal circumstances exhibited in several situations.
- (4) A general pervasive mood of unhappiness or depression.
- (5) A tendency to develop physical symptoms or fears associated with personal or school problems.

C.F.R. 300.7(c)(4)

Emotional disturbance is defined as follows:

- (i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's education performance:
 - (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (C) Inappropriate types of behavior or feelings under normal circumstances.
 - (D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes schizophrenia.

The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information includes the following:

- A report written by a credentialed school psychologist documenting the presence of a serious emotional disturbance. The report shall include a summary of previous and current assessments of educational and emotional status, educational history, home and school observations, health and developmental history, and attempted interventions.
- Eligibility as emotional disturbance for purposes of educational placement and/or services shall not be determined solely on the basis of any non-educational evaluation (including evaluations by psychiatrists or clinical psychologists).
- The IEP Team must document the following in order to find that a student has a serious emotional disturbance:
 - The disturbance is of such severity that the student's educational needs cannot be met in the regular classroom.
 - The presenting educational difficulties are not the result of social maladjustment (E.C. Section 56026 (e)).
 - The presenting educational difficulties are not the result of a behavior disorder.
 - The behavior has been observed for a period of time longer than six months.
- The inability to learn cannot be explained by intellectual or sensory factors or by limited school experience or poor attendance.

Additional considerations:

- Eligibility is based on a multi-disciplinary assessment of the student's needs.
- The least restrictive environment shall be considered when determining placement.

4.7 J. SPECIFIC LEARNING DISABILITY (SLD): A non-severe disabling condition.

Definition:

E.C. 56337

A pupil shall be assessed as having a specific learning disability which makes him or her eligible for special education and related services when it is determined that **ll** of the following exist:

- (a) A severe discrepancy exists between the intellectual ability and achievements in one or more of the following academic areas:
 - (1) Oral Expression
 - (2) Listening comprehension
 - (3) Written expression
 - (4) Basic reading skills
 - (5) Reading comprehension
 - (6) Mathematics calculation
 - (7) Mathematics reasoning
 - (8) Reading fluency
- (b) The discrepancy is due to a disorder in one or more of the basic psychological processes and is not the result of environmental, cultural, or economic disadvantages.
- (c) The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.

E.C. 56337.5 (a)

A pupil who is assessed as being dyslexic and meets eligibility criteria specified in Section 56337 and subdivision (j) of Section 3030 of Title 5 of the California Code of Regulations for the federal Individuals with Disabilities Education Act (20 U. S. C., Sec. 1400 and following) category of specific learning disabilities is entitled to special education and related services.

C.C.R. Title 5, Sec. 3030

A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337(a) of the Education Code. For the purpose of Section 3030(j):

- (1) Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, and cognitive abilities including association, conceptualization and expression.
- (2) Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.
- (3) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests.
- (4) The decision as to whether or not a severe discrepancy exists shall be made by the individualized education program team, including assessment personnel in accordance with Section 56431(d), which takes into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:
 - (A) When standardized tests are considered to be valid for a specific pupil a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and a standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy

when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations, and work samples as appropriate.

(B) When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.

(C) If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (A) or (B) above, the individualized education program team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team, which shall include, but not be limited to:

- (1) Data obtained from standardized assessment instruments;
- (2) Information provided by the parent;
- (3) Information provided by the pupil's present teacher;
- (4) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
- (5) Consideration of the pupil's age, particularly for young children;
- (6) Any additional relevant information; and
- (7) The discrepancy shall not be primarily the result of limited school experience or poor school attendance.
- (8) The discrepancy shall not be due to limited English proficiency.
- (9) The discrepancy shall not be due to lack of appropriate instruction in reading and math.

C.F.R. 300.7 (10)

Specific learning disability is defined as follows:

(i) *General.* The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) *Disorders not included.* The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

IMPLEMENTATION PROCEDURES

Required Factors in Determining Eligibility

The IEP Team must verify that the following two requirements have been met in order to state that a student is eligible for special education as a child with a specific learning disability:

- There is a severe discrepancy between ability and achievement.
- There is documented evidence of a processing disorder in one or more of the following areas:
 - Attention
 - Visual processing
 - Auditory processing
 - Sensory-motor skills
 - Cognitive abilities including association, conceptualization, and expression

In order for the student to be eligible for special education program and services the team must find that the student's needs cannot be met in the regular program (including categorical services) without special education support.

*Determination of a Severe Discrepancy

A multi-disciplinary team shall assess a student in one or more of the following areas of academic instruction:

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skills
- Reading comprehension
- Mathematics calculation
- Mathematics reasoning
- Reading fluency

A report written by a credentialed school psychologist shall document that the pupil demonstrates a severe discrepancy between his ability and achievement.

The determination of a severe discrepancy necessitates the use of a standardized achievement test and a test of intellectual ability.

IDEA 2004 allows for LEAs or SEAs to implement a Response to Intervention Model in lieu of the severe discrepancy model.

NOTE: Please refer to Appendix A for California Department of Education RtI² Core Components

When standardized tests are considered to be invalid for a specific pupil the discrepancy shall be measured by alternative means as specified on the assessment plan. This determination may be based on such data as the results of informational or criterion-referenced assessments, analysis of pupil work samples, classroom performance and observations.

Additional Considerations:

The psychological processing disorder should be manifested on more than one instrument and be corroborated by an analysis of other test results and observations.

The relationship of the processing disorder to the pupil's academic deficits should be clearly established and become the basis for instructional planning and development of specific objectives for the student's IEP.

The IEP Team shall ensure that neither the documented psychological processing disorder nor the discrepancy is due to factors of environment, cultural differences or economic disadvantage. Also, neither the documented psychological processing disorder nor the discrepancy may be the result of visual, hearing or motor disabilities, mental retardation, limited school experience or poor attendance, limited English proficiency or lack of appropriate instruction in reading and math.

4.7 K. SPEECH OR LANGUAGE IMPAIRMENT: (SLI): A non-severe disabling condition.

Definition:

E.C.56333. A pupil shall be assessed as having a language or speech disorder which makes him or her eligible for special education and related services when he or she demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his or her educational performance and cannot be corrected without special education and related services. In order to be eligible for special education and related services, difficulty in understanding or using spoken language shall be assessed by a language, speech and hearing specialist who determines that such difficulty results from any of the following disorders:

- (a) Articulation disorders, such that the pupil's production of speech significantly interferes with communication and attracts adverse attention.
- (b) Abnormal voice, characterized by persistent, defective voice quality, pitch, or loudness. An appropriate medical examination shall be conducted, where appropriate.
- (c) Fluency difficulties which result in an abnormal flow of verbal expression to such a degree that these difficulties adversely affect communication between the pupil and listener.
- (d) Inappropriate or inadequate acquisition, comprehension, or expression of spoken language such that the pupil's language performance level is found to be significantly below the language performance level of his or her peers.
- (e) Hearing loss which results in a language or speech disorder and significantly affects educational performance.

C.F.R. 300.7 (11)

Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

C.C.R., Title 5, Sec. 3030

A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that the pupil's disorder meets one or more of the following criteria:

(1) ARTICULATION

C.C.R., Title 5, Sec. 3030 (c)

(1) Articulation Disorder.

(A) The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

(B) A pupil does not meet the criteria for articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

IMPLEMENTATION PROCEDURES

A student having hearing within the normal speech range shall be assessed as having an articulation disorder when the student demonstrates a developmental delay in the production of one or more phonemes.

- A preschool child between the ages of three and five years must have one or more sound articulation errors delayed by a minimum of six months according to a developmental scale of articulation competency.
- Upon entering kindergarten and up to age eight, a student must have one or more sound articulation errors delayed by a minimum of one year according to a developmental scale of articulation competency. An exception to this year delay would be lateralization of sibilant sounds. Students who produce lateralized s, z, sh, ch, or j, should receive therapy as soon as the sound in error goes beyond the developmental scale.
- Students age eight and above must have one or more misarticulations and demonstrate one or more of the following:
 - Lack of stimulability in syllables/words.
 - Consistency of error in two or more speaking situations.
 - Reduced intelligibility in conversational speech.

(2) ABNORMAL VOICE

C.C.R., Title 5, Sec. 3030 (c)

(2) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

IMPLEMENTATION PROCEDURES

- A student shall be assessed by a multi-disciplinary team as having abnormal voice when the disorder adversely affects educational performance. When indicated, vocal assessment shall include a medical laryngeal examination.
- The IEP team documents that the abnormal voice is noticeable to both familiar and unfamiliar listeners, interferes with communicating, is noticeable over a long period of time and is inappropriate for the student's age and/or sex.

(3) FLUENCY DISORDER

C.C.R., Title 5, Sec. 3030 (c)

Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

IMPLEMENTATION PROCEDURES

- A student shall be assessed by a multi-disciplinary team as having a fluency disorder when the student exhibits inappropriate rate or rhythm of speech or excessive repetition, revision, interjection, pauses, and other breaks in the flow of speech that do not enhance meaning.
- A certain degree of normal non-fluent behavior characterizes the speech of very young children. In this case, periodic monitoring and parent education may be more appropriate than direct intervention.

(4) LANGUAGE DISORDER

C.C.R., Title 5, Sec. 3030 (c)

Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

(A) The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

(B) The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subsection (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information shall include the following:

- Assessment in one or more of the following areas of language development:
- Morphology
- Syntax
- Semantics
- Pragmatics

Scores on standardized tests shall meet the requirements set forth in Title 5 quoted above.

Scores from analysis of a language sample must also meet the requirement set forth in Title 5 quoted above.

When standardized tests are considered to be invalid for a specific pupil, the language disorder shall be assessed by alternative means as specified on the assessment plan.

Language Disorder does not include:

- Students who have atypical patterns resulting from lack of familiarity with English, cultural differences, race, or environmental deprivation.
- Students whose language is commensurate with his/her general cognitive functioning.

Language Disorder does not include:

- Students who have atypical patterns resulting from lack of familiarity with English, cultural differences, race, or environmental deprivation.
- Students whose language is commensurate with his/her general cognitive functioning.

4.7 L. TRAUMATIC BRAIN INJURY (TBI): A severe or non-severe disabling condition

Definition:

C.F.R. 300.7 (C)

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a

child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment, problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information includes the following:

- A review of medical records, which document a diagnosis of traumatic, brain injury.
- A written report by a school psychologist which shall include a summary of previous and current educational performance, cognitive functioning, home and school observations and attempted interventions.
- Assessment by persons knowledgeable in the following areas:
 - Post trauma academic functioning
 - Language and speech production
 - Perceptual and motor abilities
 - Judgment and psychosocial behavior
 - Health and physical functions
 - Adaptive behaviors
 - The IEP Team shall determine that the traumatic brain injury adversely affects educational performance.
 - The least restrictive environment shall be considered when determining placement.

4.7 M. VISUAL IMPAIRMENT INCLUDING BLINDNESS (VI): A severe or non-severe disabling condition.

Definition:

C.F.R. 300.7 (13)

Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

IMPLEMENTATION PROCEDURES

A multi-disciplinary team shall assess a student. Relevant information to be considered includes a written report of an eye examination by either a physician or optometrist and a functional vision assessment by a person credentialed to serve the visually impaired. One of the following descriptions should apply:

- **Partially Sighted:** The student's visual acuity in the better eye, after the best correction, is between 20/70 and 20/200.
- **Legally Blind:** Central visual acuity of 20/200 or less in the better eye after best correction with conventional spectacle lenses, or visual acuity better than 20/200 if there is a field defect in which the widest diameter of the visual field is no greater than 20 degrees. In the United States this definition has been established primarily for economic and legal purposes.
- **Blind:** The student's visual impairment is so severe that for education purposes, vision cannot be used as a major channel of learning and the visual impairment, even with correction, adversely affects the individual's educational performance.



CORE COMPONENTS RtI²

A cohesive RtI² process integrates resources from general education, categorical programs and special education into a comprehensive system of core instruction and interventions to benefit every student. The following core components are critical to the full implementation of a strong RtI² process.

1. **High-quality classroom instruction.** Students receive high-quality, standards and research-based, culturally and linguistically relevant instruction in their classroom setting by highly qualified teachers.
2. **High expectations.** A belief that every student can learn including students of poverty, students with disabilities. English learners and students representing all ethnicities are evident in the school and district cultures.
3. **Assessments and data collection.** An integrated data collection and assessment system includes universal screening, diagnostics and progress monitoring to inform decisions appropriate for each tier of service delivery.
4. **Problem-solving systems approach.** Collaborative teams use a problem-solving systems process and method to identify problems, develop interventions and evaluate the effectiveness of the intervention in a multi-tiered system of service delivery.
5. **Research-based interventions.** When monitoring data indicate a lack of progress, an appropriate research-based intervention is implemented. The interventions are designed to increase the intensity of the students' instructional experience.
6. **Positive behavioral support.** School staff members use school wide and classroom research-based positive behavioral supports for achieving important social and learning outcomes.
7. **Fidelity of program implementation.** Student success in the RtI² framework requires fidelity of implementation in the delivery of the content and instructional strategies specific to the learning and/or behavioral needs of the student.
8. **Staff development and collaboration.** All school staff members are trained in assessments, data analysis, programs, and research-based instructional practices and

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positive behavioral support. Site grade level or interdisciplinary teams use a collaborative approach to analyze student data and work together in the development, implementation, and monitoring of the intervention process.

9. **Parent/family involvement.** The involvement and active participation of the parents/families at all stages of the instructional and intervention process are essential to improving the educational outcomes of their students. Parents/families are kept informed of the progress of their students in their native language or other mode of communication, and their input is valued in making appropriate decisions.

10. **Specific Learning Disability Determination.** The RtI² approach may be one component of Specific Learning Disability determination as addressed in the individuals with Disabilities Education Act of 2004 statute and regulations. As part of determining eligibility, the data from the RtI² process may be used to ensure that a student has received research-based instruction and interventions.

This document is provided by the California Department of Education.
<http://www.cde.ca.gov/ci/cr/ri/rticorecomponents.asp>



ELIGIBILITY SUMMARY FORMS

- Eligibility Summary – Autism (AUT)
- Eligibility Summary – Deaf-Blindness (DB)
- Eligibility Summary – Deafness (D)
- Eligibility Summary – Hearing Impairment (HI)
- Eligibility Summary – Intellectual Disability (ID)
- Eligibility Summary – Multiple Disabilities (MH)
- Eligibility Summary – Orthopedic Impairment (OI)
- Eligibility Summary – Other Health Impairment (OHI)
- Eligibility Summary – Emotional Disturbance (ED)
- Eligibility Summary – Specific Learning Disability (SLD)
- Eligibility Summary – Speech or Language Impairment (SLI) (Articulation Disorder)
- Eligibility Summary – Speech or Language Impairment (SLI) (Abnormal Voice)
- Eligibility Summary – Speech or Language Impairment (SLI) (Fluency Disorder)
- Eligibility Summary – Speech or Language Impairment (SLI) (Language Disorder)
- Eligibility Summary – Traumatic Brain Injury (TBI)
- Eligibility Summary – Visual Impairment (VI)



Eligibility Summary – Autism (AUT)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil exhibits any combination of the following autistic-like behaviors, to include but not be limited to: (1) an inability to use oral language for appropriate communication; (2) a history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood; (3) and obsession to maintain sameness; (4) extreme preoccupation with objects or inappropriate use of objects or both; (5) extreme resistance to controls; (6) displays peculiar motoric mannerisms and motility patterns; (7) self-stimulating, ritualistic behavior.

ELEMENTS *All four elements listed below must be checked to establish eligibility.*

1. A written report from a school psychologist or other person with experience and training in working with autistic children.
2. A written report from a speech/language specialist addressing verbal and non-verbal communication skills.
3. The following behaviors were documented in the above written reports:
 - ___ 1. An inability to use oral language for appropriate communication
 - ___ 2. A history of extreme withdrawal, relating, or other impairment of social interaction.
 - ___ 3. An obsession to maintain sameness.
 - ___ 4. Extreme preoccupation or inappropriate use of objects.
 - ___ 5. Extreme resistance to controls.
 - ___ 6. Displays peculiar motoric mannerisms or motility patterns.
 - ___ 7. Self-stimulating, ritualistic behavior.
 - ___ 8. _____
4. Assessment/observation which indicates that the pupil's educational needs cannot be met with modification and/or resources of the regular education program.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...autism...and who because of those impairments need special education and related services."

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Eligibility Summary – Deaf-Blindness (DB)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3033: A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

ELEMENTS All five elements listed below must be checked to establish eligibility.

1. Hearing loss, with or without amplification, as determined by a qualified audiologist.
2. A written report by either a physician or an optometrist which states:
 - _____ Central visual acuity is 20/200 or less in the better eye after best correction with conventional spectacle lenses.
 - _____ Visual acuity is better than 20/200 if there is a field defect in which the widest diameter of the visual field is not greater than 20 degrees.
3. Delays in communication, social, emotional, physical, and educational performance are directly related to the hearing and visual impairment.
4. These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.
5. Needs cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability" means a child evaluated in accordance with Sec. 300.530-300.536 as having...deaf-blindness...and who because of those impairments need special education and related services."

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Eligibility Summary— Deafness (D)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a hearing impairment whether permanent or fluctuating, which impairs the processing of linguistic information through hearing even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

ELEMENTS *All four elements listed below must be checked to establish eligibility.*

1. Current audiological evaluation, with and without amplification, as determined by a qualified audiologist.
2. The hearing impairment is so severe that there is an impairment in the processing of linguistic information through hearing with or without amplification.
3. This condition affects the development of expressive or receptive communication, or both, developmental growth and/or educational performance.
4. These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...deafness...and who because of those impairments need special education and related services."



Eligibility Summary – Hearing Impairment (HI)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a hearing impairment whether permanent or fluctuating, which impairs the processing of linguistic information through hearing even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

ELEMENTS All five elements listed below must be checked to establish eligibility.

1. Current audiological evaluation, with or without amplification, makes it difficult for the pupil to process linguistic information through hearing.
2. The hearing impairment, whether permanent or fluctuating, adversely affects:
 - _____ expressive and/or receptive communication.
 - _____ developmental growth.
 - _____ educational performance.
3. The hearing impairment, with or without amplification, makes it difficult for the pupil to process linguistic information through hearing.
4. These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.
5. Hearing impairment is not included under the definition of deafness.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability" means a child evaluated in accordance with Sec. 300.530-300.536 as having...hearing impairment...and who because of those impairments need special education and related services."

Eligibility Summary – ~~Mental Retardation (MR)~~ Intellectual Disability

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affect a pupil's educational performance.

ELEMENTS All five elements listed below must be checked to establish eligibility.

1. The pupil demonstrates significantly below average intellectual ability.
2. The pupil demonstrates concurrent deficits in adaptive behavior.

Identified areas of weakness include:

1. _____
2. _____
3. _____
4. _____

3. These deficits were manifested during the developmental period.
4. These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...~~mental retardation~~ an intellectual disability...and who because of those impairments need special education and related services.

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Eligibility Summary – Multiple Disabilities (MD)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.F.R. 300.7(c)(7): A pupil has concomitant impairments, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

ELEMENTS *Pupil must have at least two severe impairments to establish eligibility within this classification.*

1. Severe Impairment: _____
Federal Classification

2. Severe Impairment: _____
Federal Classification

3. Additional Impairments: _____
Federal Classification

4. The combination of these impairments requires unique modifications and support not available in programs designed solely for one of these impairments.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...multiple disabilities...and who because of those impairments need special education and related services.



Eligibility Summary – Orthopedic Impairment (OI)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

ELEMENTS *Both elements listed below must be checked to establish eligibility.*

1. This pupil has a documented diagnosis of physical impairment:

- _____ Cerebral Palsy
- _____ Poliomyelitis
- _____ Infections (bone and joint tuberculosis)
- _____ Osteomyelitis
- _____ Congenital anomalies (amputation, clubfoot, dislocations, or spinal bifida)
- _____ Birth injury (Erb's palsy and fractures)
- _____ Trauma (amputations, burns or fractures)
- _____ Tumors (bone tumors or bone cysts)
- _____ Developmental diseases (coxaplane or spinal osteochondritis)
- _____ Other conditions (fragile bones, muscular atrophy, muscular dystrophy, Perthe's disease, juvenile rheumatoid arthritis)

2. It has been determined by the assessment team that the above-diagnosed physical impairment adversely affects the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: *As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...orthopedic impairment... and who because of those impairments need special education and related services.*

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Eligibility Summary – Other Health Impairment (OHI)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has limited strength, vitality, or alertness, due to chronic or acute health problems . . . which adversely affects a pupil's educational performance. In accordance with Section 5626(e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Section 3001(v).

34 C.F.R. 300.8 (c)(9): Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that – (i) is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome. And (ii) adversely affects a child's educational performance.

ELEMENTS *All elements listed below must be checked to establish eligibility.*

1. Documented health problem due to _____
_____ (may include, but not limited to: heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, attention deficit disorder, attention deficit hyperactivity disorder, epilepsy, lead poisoning, diabetes, tuberculosis, an infectious disease, a hematological disorder, such as sickle cell anemia, hemophilia).
2. This health problem results in limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.
3. This health problem adversely affects the pupil's educational performance.
4. In the case of school staff referral, there is documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. (5 CCR 3021 (b)(2))
5. The resources of the regular education program have been considered, and where appropriate, utilized. (California Ed. Code Section 56303)

Note: *As used in 34 C.F.R. Part 300 Sec. 300.8 “‘A child with a disability’ means a child evaluated in accordance with Sec. 300.304-300.311 as having...other health impairment...and who, by the reason thereof, needs special education and related services.”*



Eligibility Summary-- Emotional Disturbance (ED)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: Because of a serious emotional disturbance, a pupil exhibits one or more of the following characteristics over a long period of time and to a marked degree, which adversely affect educational performance:

One or more must be checked:

- _____ 1. An inability to learn which cannot be explained by intellectual, sensory, or health factors.
- _____ 2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- _____ 3. Inappropriate types of behavior or feelings under normal circumstances exhibited in several situations.
- _____ 4. A general pervasive mood of unhappiness or depression.
- _____ 5. A tendency to develop physical symptoms or fears associated with personal or school problems.

ELEMENTS All elements listed below must be checked to establish eligibility.

- 1. The disturbance is of such severity that the pupil's educational needs cannot be met in the regular classroom.
- 2. The presenting educational difficulties are not due primarily to the social maladjustments. (E.C. Sec. 56026 (e)).
- 3. The presenting educational difficulties are not primarily the result of behavior disorder.
- 4. The behavior has been observed for a period of time longer than six months, and to a marked degree.
- 5. The inability to learn cannot be explained by intellectual or sensory factors or by limited school experience or poor attendance.
- 6. These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having... serious emational disturbance...and who because of those impairments need special education and related services."



Eligibility Summary – Specific Learning Disability (SLD)

Pupil's Name _____

Birth date _____

School _____

Date _____

Title 5, Sec. 3030: A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337 (a) of the Education Code.

ELEMENTS *All four elements listed below must be checked to establish eligibility.*

1. This student had demonstrated a severe discrepancy between intellectual ability and achievement in one or more of the following academic areas specified in Sec. 56337 (a) of the Education Code:

| | |
|--|--|
| <input type="checkbox"/> Oral Expression | <input type="checkbox"/> Reading comprehension |
| <input type="checkbox"/> Listening comprehension | <input type="checkbox"/> Mathematics calculation |
| <input type="checkbox"/> Written expression | <input type="checkbox"/> Mathematics reasoning |
| <input type="checkbox"/> Basic reading skills | <input type="checkbox"/> Reading fluency |

2. The discrepancy is due to a disorder in one or more of the basic psychological processes:

| | |
|--|---|
| <input type="checkbox"/> attention | <input type="checkbox"/> sensory motor skills |
| <input type="checkbox"/> visual processing | <input type="checkbox"/> cognitive abilities including: |
| <input type="checkbox"/> auditory processing | <input type="checkbox"/> association |
| | <input type="checkbox"/> conceptualization |
| | <input type="checkbox"/> expression |

3. The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program (E.C. Sec. 56337).

4. It has been determined by the assessment team that the learning problems are not primarily the result of visual, hearing, or motor disabilities; of mental retardation; of emotional disturbance; or, of environmental, cultural, or economic disadvantage (C.F.R. Sec. 300.7 (b)(10). The discrepancy is not primarily the result of limited school experience or poor school attendance, limited English proficiency or lack of appropriate instruction in reading and math. (E.C. Sec. 56341).

Note: *As used in 34 C.F.R. Part 300 Sec. 300.7 “‘A child with a disability’ means a child evaluated in accordance with Sec. 300.530-300.536 as having...specific learning disability...and who because of those impairments need special education and related services.”*

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Eligibility Summary – Speech or Language Impairment (SLI) - Articulation Disorder (AD)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Articulation Disorder:

C.C.R. Title 5, Sec. 3030 (c) (1):

ELEMENTS

(A) The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

(B) A pupil does not meet the criteria for articulation disorder if the sole assessed disability is an abnormal swallowing pattern. **Student demonstrates a developmental delay in production of one or more phonemes. Check one of the following:**

1. Preschool child between ages three and five: One or more sound articulation errors delayed by at least six months.
2. Kindergarten to age eight: One or more sound articulation errors delayed by a minimum of one year. Exception: Production of lateralized s, z, sh, ch, or j, should receive therapy as soon as the sound in error goes beyond the development scale.
3. School age student age eight and above:
 - a. One or more misarticulations and demonstrates one or more of the following:
 - Lack of stimulability in syllables/words
 - Consistency or error in two more speaking situations
 - Reduced intelligibility in conversational speech
 - b. The two elements below must be checked to determine eligibility:
 - Disorder significantly interferes with communication
 - Disorder attracts adverse attention

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having... speech or language impairment...and who because of those impairments need special education and related services."

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Eligibility Summary – Speech or Language Impairment (SLI) - Abnormal Voice

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Abnormal Voice:

C.C.R. Title 5, Sec. 3030 (c) (2): A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch or loudness.

ELEMENTS *All of the following must be documented:
(When indicated, vocal assessment shall include a medical laryngeal examination.)*

1. The disorder adversely affects educational performance.
2. The abnormal voice is noticeable to both familiar and unfamiliar listeners.
3. The abnormal voice interferes with communicating.
4. The abnormal voice is noticeable over a long period of time.
5. The abnormal is inappropriate for the student's age and/or sex.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...speech or language impairment...and who because of those impairments need special education and related services."

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Eligibility Summary – Speech or Language Impairment (SLI) - Fluency Disorder (AD)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Fluency Disorder:

C.C.R. Title 5, Sec. 3030 (c) (3): A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

ELEMENTS *At least one of the following must be documented:*

1. The student exhibits inappropriate rate or rhythm of speech.
2. The student exhibits excessive repetition, revision, interjection, pauses, and other breaks in the flow of speech that does not enhance meaning.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having... speech or language impairment...and who because of those impairments need special education and related services."

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Eligibility Summary – Speech or Language Impairment (SLI) – Language Disorder

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Language Disorder:

C.C.R. Title 5, Sec. 3030: The pupil has an expressive or receptive language disorder when he or she meets criteria A or B listed below.

ELEMENTS A or B below must be checked.

- A. The pupil scores at least 1.5 standard deviations below the mean , or below the 7th percentile, for his or her chronological age or development level on **two** or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics.
- B. The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or development level on **one** or more standardized tests in one of the following areas: morphology, syntax, semantics, or pragmatics **and** displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances.

Language Sample: Check one.

_____ The language sample is recorded or transcribed and analyzed in the assessment report.

_____ There is documentation in the report of why a fifty utterance sample was not obtainable and the context in which attempts were made to elicit the sample.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 “ ‘ A child with a disability’ means a child evaluated in accordance with Sec. 300.530-300.536 as having...speech or language impairment...and who because of those impairments need special education and related services.”

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Eligibility Summary – Traumatic Brain Injury (TBI)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.F.R. 300.7 (c)(12): Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

ELEMENTS *All three elements listed below must be checked to establish eligibility.*

1. The pupil has had an open or closed head injury that has affected the following: (check all that apply).
 - ____ cognitive
 - ____ language
 - ____ memory
 - ____ attention
 - ____ reasoning
 - ____ abstract thinking judgment
 - ____ problem solving
 - ____ sensory, perceptual abilities, motor abilities
 - ____ psychosocial behavior
 - ____ physical functions
 - ____ information processing
 - ____ speech
2. The injury has resulted in total or partial functional disability of psychosocial impairment.
3. The injury adversely affects educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: *As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...traumatic brain injury...and who because of those impairments need special education and related services."*

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Eligibility Summary – Visual Impairment (VI)

Pupil's Name _____

Birth date _____

School _____

Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance.

ELEMENTS *Both elements listed below must be checked to established eligibility.*

1. This pupil has a documented visual impairment:

_____ with acuity in the better eye, after the best correction, between 20/70 and 20/200 (partially sighted).

_____ with central visual acuity of 20/200 or less in the better eye after best correction with conventional spectacle lenses (legally blind).

_____ with visual acuity better than 20/200 if there is a field defect in which the widest diameter of the visual field is not greater than 20 degrees (legally blind).

_____ Vision cannot be used as a major channel of learning (blind).

2. It has been determined by the assessment team that the above-diagnosed visual impairment adversely affects the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " ' A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having...visual impairment...and who because of those impairments need special education and related services."

***INSERT SPEECH & LANGUAGE
GUIDELINES***

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SECTION 5

INDIVIDUALIZED EDUCATION
PROGRAM



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INDIVIDUALIZED EDUCATION PROGRAM

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INDIVIDUALIZED EDUCATION PROGRAM

5.1 INTRODUCTION

The Individualized Education Program (IEP) is a written plan which is developed by an IEP team that results in an offer of Free Appropriate Public Education (FAPE) that provides educational benefit for a student with a disability. The IEP document describes the student's present level of academic achievement and functional performance, sets annual goals and describes the special education program and related services needed to meet those goals.

The SELPA or LEA will provide a continuum of program options to meet the needs of students with disabilities to ensure a free appropriate public education (FAPE).

The IEP team determines the program or combinations of programs that can meet the student's needs in the least restrictive environment (LRE), allowing for maximum interaction with typically developing peers and course content consistent with instruction provided to students without disabilities.

Once a student has been found eligible for special education and related services, placement is based upon the specific needs of the student in the least restrictive environment. Related services are provided only if necessary for the student to benefit from their special education program.

The IEP shall show a direct relationship between the present levels of performance, the goals (and objectives if appropriate) and the specific educational services to be provided. (C.C.R., Title 5, Sec. 3040 (c))

5.2 INDIVIDUALIZED EDUCATION PROGRAM REQUIREMENTS

5.2 A. Development of the IEP

An IEP shall be developed within a total time not to exceed 60 calendar days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension.

A district administrator or designee will initiate and conduct the meeting for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

All efforts will be made to ensure that one or both of the parents of a child, with a disability, are present at each IEP meeting or are afforded the opportunity to participate. The parent will be notified of the meeting early enough to ensure that they will have an opportunity to attend. The meeting will be scheduled at a mutually agreed upon time and place.

When developing each student's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child. The IEP team will consider the results of the initial or most recent evaluation of the child, and as appropriate, the results of the child's performance on any general State or district wide assessment program. (EC 56342)

5.2 B. IEP Content

The term "individualized education program" (IEP) means a written statement for each child with a disability that is developed, reviewed, and revised and includes:

- (1) a statement of the child's present levels of academic achievement and functional performance, including:
 - (a) how the disability affects the child's involvement and progress in the general education curriculum;
 - (b) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
 - (c) for children with disabilities who take 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 child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - (b) meet each of the child's other educational needs that result from the child's disability.
- (3) a description of how the child's progress toward meeting the annual goals will be measured, and when periodic reports on progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with issuance of report cards) will be provided;

- (4) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:
 - (a) to advance appropriately toward attaining the annual goals;
 - (b) to be involved in and make progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
 - (c) to be educated and participate with other children with disabilities and typically developing peers in the activities described above.
- (5) an explanation of the extent, if any, to which the child will not participate with typically developing peers in the regular class and extracurricular and nonacademic activities;
- (6) a statement of any individual appropriate accommodations that is necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.

If the IEP team determines that the child shall take an alternate assessment on a particular State or district-wide assessment of student achievement, a statement of why:

- (a) the child cannot participate in the regular assessment; and
 - (b) the particular alternate assessment selected is appropriate for the child;
- (7) the projected date for the beginning of services and modifications, and the anticipated frequency, location and durations of those services and modifications.
 - (8) Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter:
 - (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 course of study) needed to assist the child in reaching those goals; and
 - (c) beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of

the child's rights that will transfer to the child when reached age 18.

When appropriate, the IEP will also include other necessary services, such as extended school year (ESY), transportation, type of physical education, prevocational, vocational and career education. (30 EC 56345)

All service providers, the school site and any outside agencies that will provide services will be given a copy of the IEP or be knowledgeable of its content.

5.3 IEP TEAM MEMBERS

Each meeting to develop, review, or revise the individualized education program of a child with special needs shall be conducted by an IEP team.

The IEP team shall include all of the following:

- (1) One or both of the student's parents, a representative selected by a parent, or both
- (2) Not less than one general education teacher of the student, if the student is, or may be, participating in the general education environment. If more than one general education teacher is providing instructional services to the student, one general education teacher may be designated by the LEA to represent the others. The general education teacher of a student shall, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and 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.
- (3) Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.
- (4) A representative of the local educational agency who meets all of the following:
 - (a) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.
 - (b) is knowledgeable about the general curriculum.

(c) is knowledgeable about the availability of resources of the local educational agency.

- (5) An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team.
- (6) At the discretion of the parent, guardian, or the local educational agency, 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 individualized education program team.
- (7) Whenever appropriate, the student. The LEA shall invite the student to attend his or her IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals and the needed transition services for the student. If the student does not attend the IEP meeting, the LEA shall take steps to ensure that the student's preferences and interests are considered. (30 EC 56341)

The general education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP. The teachers will assist in the determination of appropriate positive behavioral interventions and strategies for the child, and supplementary aids and services, program modifications or supports for school personnel that will be provided for the child.

5.3 A. IEP Team Member Excusal

IEP Team Area of Curriculum Not Being Discussed

A member of the individualized education program team shall not be required to attend an IEP team meeting, in whole or in part, if the parent of student and the LEA agree 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 in the meeting.

IEP Team Member Area of Curriculum or Related Services Being Discussed

A member of the individualized education program team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if both of the following occur:

- (1) The parent and the LEA consent to the excusal after conferring with the member.
- (2) The member submits in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting. A parent's agreement shall be in writing. (30 EC 56341)

5.3 B. If Parents Cannot Attend IEP Meeting

If neither parent can attend, other methods will be used to ensure parent participation, including individual or conference telephone calls.

If the parent cannot be contacted or if the district is unable to convince the parents that they should attend, the IEP meeting may be conducted without a parent in attendance. The district will keep a record of its attempts to arrange a mutually agreed on time and place, such as:

1. A detailed record of phone calls made or attempted and the result of those calls;
2. Copies of correspondence sent to the parents and any responses received; or
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

When no parent can be located or if the court has specifically limited the rights of the parent or guardian to make educational decisions for the child, a surrogate parent will be appointed.

5.4 LEAST RESTRICTIVE ENVIRONMENT

Definition:

- (a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled.
- (b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the general educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (30 EC 56040.1)

Least restrictive environment (LRE) requirements include the following:

- (1) The student's placement will be as close as possible to his/her home.
- (2) Unless the IEP requires some other arrangement, the student will be educated in the school that he or she would attend if not identified with special needs.
- (3) In selecting the least restrictive environment, consideration will be given to any potential harmful effect on the student or on the quality of services that he/she needs.
- (4) A student with a disability will not be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.
- (5) In providing or arranging for the provision of nonacademic and extracurricular services and activities, the district will ensure that the student with the disability participates with typically developing peers in those services and activities to the maximum extent appropriate to the needs of that student.
- (6) Special classes may enroll a student only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services, including curriculum modifications and behavioral support, cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of students from the general education environment. (EC 56364, 56364.2; 5 CCR 3042; CFR 300.550)

The IEP team shall document its rationale for placement in other than the student's school and classroom in which he/she would otherwise attend if he/she did not have a disability. The documentation shall indicate why the student's disability prevents his/her needs from being met in a less restrictive environment, even with the use of supplementary aids and services.

In determining the educational placement of a student with a disability, the LEA will ensure that the placement decision is made by an IEP team including the parents, and other persons knowledgeable about the student.

All placement decisions will be based on the individual needs of the student pursuant to the IEP and not on the basis of the disability, configuration of service delivery, availability of staff, curriculum intent or administrative experience. All placements will be made in the least restrictive environment.

Specific educational placement means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the individualized education

program, in any one or a combination of public, private, home and hospital, or residential settings. (C.C.R., Title 5, Sec. 3042)

The continuum of options include, but are not necessarily limited to all of the following or any combination of the following:

- 1) General education classroom.
- 2) General education classroom with supplementary aids and services.
- 3) General education classroom with resource specialist services
- 4) General education classroom with related services.
- 5) General education classroom with services from a special day class teacher and supports and/or related services.
- 6) Special classes and centers.
- 7) Nonpublic, nonsectarian school services.
- 8) State special schools.
- 9) Residential schools
- 10) Home/ Hospital

5.5 SPECIAL EDUCATION AND RELATED SERVICES AND DESCRIPTORS

Specialized Academic Instruction (SAI) is defined as: "Adapting, as appropriate to the needs of the child with a disability the content, methodology, or delivery of instruction to ensure access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children." (34 CFR 300.26(b) (3)).

The California State Department of Education (CDE) made changes in the 2006/07 school year on how they report special education and related services. Therefore, many districts are aligning their reporting system with the requirements of the state.

When districts adopt SAI there will no longer be separate designations by program (i.e., resource specialist and SDC). Therefore the IEP would denote *specialized academic instruction*.

The primary instructional service for most special education services will be listed as *Specialized Academic Instruction* on Form 5A of the IEP. As *specialized academic instruction* is identified, one must also identify the amount of service and the location. A student may have more than one line for this service when the locations are different. For example, you may have one line that indicates (SAI) in general education for 10 hours a week, and another line that indicates (SAI) in a separate class for 5 hours per week.

5.5 A. Specialized Academic Instruction/ Resource Specialist Program/Non-intensive Services

Description

The resource specialist program/non-intensive services shall provide, but not be limited to, all of the following:

- (1) Provision for a resource specialist or specialists who shall provide instruction and services for those students whose needs have been identified in an IEP, developed by the IEP Team, and who are assigned to regular classroom teachers for a majority of a school day;
- (2) Provision of information and assistance to students with disabilities and their parent;
- (3) Provision of consultation, resource information, and material regarding students with disabilities to their parents and to regular staff members;
- (4) Coordination of special education services with the regular school programs for each student enrolled in the resource specialist program;
- (5) Monitoring of student progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of students who do not demonstrate appropriate progress to the IEP Team; and
- (6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

Staffing

The resource specialist program shall be under the direction of a resource specialist/mild to moderate specialist, who is a credentialed special education specialist, or who has a clinical services credential, with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

If the person is classified as a resource specialist the following education code applies:

At least 80 percent of the *resource specialists* within a local plan shall be provided with an instructional aide.

No resource specialist shall have a caseload that exceeds 28 students without a waiver.

Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a school day. (EC 56362)

5.5 B. Specialized Academic Instruction/Special Day Classes/Intensive Services

Description

Placement in a special day class/intensive services shall not limit or restrict the consideration of other options, including services provided in a vocational education program or any combination of programs and placements as may be required to provide the services specified in a student's IEP.

The following standards for special classes shall be met:

- (a) Special classes may enroll students only when the nature or severity of the disability of the student is such that education in the regular classes with the use of supplementary aids and services including curriculum modification and behavioral support cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of individuals with disabilities from the general educational environment;
- (b) Students in a special class shall be provided with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group;
- (c) When the IEP team determines that a student cannot function for the period of time of a regular school day, and when it is so specified in the IEP, a student may be permitted to attend a special class for less time than the regular school day for that chronological peer group.

Staffing

The special day class shall be taught by a teacher, whose responsibility is the instruction, supervision, and coordination of the educational program for those students enrolled in the special class.

The special day class teacher must hold an appropriate special education credential and possess the necessary competencies to teach students assigned to the class.

Districts will assign Instructional Assistants to special education classes in accordance with the needs of the students. Instructional assistants will also be assigned in accordance with provisions in individual student's IEPs.

5.5 C. Nonpublic, Nonsectarian School Services.

Nonpublic, nonsectarian school" means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the CDE.

When a student whose educational needs cannot be met in a public educational program, nonpublic nonsectarian school services shall be made available to the student.

NPS/NPA services shall be provided under contract with the LEA or SELPA to provide the appropriate special education and related services when no appropriate public education program is available.

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| NOTE: Please refer to Section 12 for information about Nonpublic Schools and Agencies |
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5.5 D. State Special Schools.

In determining the educational placement of a child with a disability, including a preschool child, the district will ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child.

All placement decisions will be based on the individual needs of the student pursuant to the IEP and not on the basis of the disability, configuration of service delivery and availability of staff. All placements will be made in the least restrictive environment. (EC 56360, 56361; CFR 300.551, 300.26)

5.5 E. Residential Schools

The IEP team may determine that a student needs a residential placement.

5.5 F. Home and Hospital Instruction

"Home and hospital services" means instruction delivered to children with disabilities, individually, in small groups, or by teleclass, whose medical condition such as those related to surgery, accidents, short-term illness or medical treatment for a chronic illness prevents the individual from attending school. (5 CCR 3065)

5.6 RELATED SERVICES/DESIGNATED INSTRUCTIONAL SERVICES (DIS)

The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children. (EC 30 EC 56363)

Related services as specified in the IEP shall be available, when the instruction and services are necessary for the student to benefit educationally from his or her special education program. These services may include, but are not limited to, the following:

5.6 A. Speech and Language Services

The related service in language speech and hearing may include:

- (1) Specialized instruction and services for students with disorders of language, speech and/or hearing, including monitoring of student progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of students.

- (2) Consultative services to students, parents, teachers, or other school personnel in the management of a student's language, speech development, or hearing needs.
- (3) Coordination of speech and language services with a student's regular and special education program.
- (4) The person providing instruction and services shall hold an appropriate credential with specialization in language, speech and hearing

Caseloads of full-time equivalent speech/language pathologist (SLP) shall not exceed a district-wide or SELPA-wide average of (55) fifty-five students unless prior written approval has been granted by the State Superintendent of Public Instruction.

Services may be provided by a speech/language pathology assistant (SLPA) working under the direct supervision of a credentialed speech/language pathologist if specified in the IEP.

5.6 B. Audiological Services

Audiological instruction and services, aural rehabilitation, including auditory training and speech reading, may include the following:

- (1) Aural rehabilitation (auditory training, speech reading, language habilitation and speech conservation) and habilitation with individual students or groups and support for the hearing-impaired students in the regular classroom.
- (2) Monitoring hearing levels, auditory behavior, and amplification for all students requiring personal or group amplification in the instructional setting.
- (3) Planning, designing, organizing and implementing an audiology program for individuals with auditory dysfunction, as specified in the IEP.
- (4) Consultative services regarding test findings, amplification needs and equipment, ontological referrals, home training programs, acoustic treatment of rooms, and educational management of the hearing-impaired individuals.

- (5) The person providing audiological services shall hold a valid credential with a specialization in clinical or rehabilitative services in audiology.

5.6 C. Orientation and Mobility Instruction

Related services in orientation and mobility may include the following:

- (1) Specialized instruction for individuals in orientation and mobility techniques.
- (2) Consultative services to other educators and parents regarding instructional planning and implementation of the IEP.
- (3) Counseling services to parents of individuals with disabilities relative to the development of orientation and mobility skills and independent living skills of their children.
- (4) The person providing mobility instruction and services shall hold a credential as an orientation and mobility specialist.

5.6 D. Instruction in the Home and Hospital

Related services in the home or hospital may include the following:

- (1) Instruction and services for individuals with disabilities whose physical condition requires their confinement for prolonged periods of time and who require long-term instruction at home or in a hospital. The IEP team must recommend this service.
- (2) Instruction and service for individuals with disabilities, whose disability restricts their capability to attend school, and whose instructional goals include both academic and rehabilitative services. This service must be recommended by the IEP team and is regarded as an interim placement.
- (3) One (1) hour of home/hospital instruction is the equivalent of a full day of ADA, and that a typical home/hospital instruction is 1 hour per day. However, the amount of instruction time must be based upon a student's needs, and may be fewer or greater than 60 minutes per day.

Instruction in the home or hospital shall be provided by a regular class teacher, the special class teacher or the resource specialist, if the teacher or specialist is competent to provide such instruction.

5.6 E. Adapted Physical Education (APE)

Adapted physical education is designed for students with disabilities who require developmental or corrective instruction and which preclude the individual's participation in the activities of the general physical education program, modified regular physical education program, or in a specially designed physical education program in a special class.

Consultative services may be provided to students, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the regular physical education program or specially designed physical education programs.

Teachers instructing adapted physical education shall have a credential authorizing the teaching of adapted physical education as established by the Commission on Teacher Credentialing.

5.6 F. Occupational Therapy and Physical Therapy

When the LEA contracts for the services of an occupational therapist or a physical therapist, the following standards shall apply:

- (1) Occupational or physical therapists shall provide services based upon recommendation of the IEP Team. Physical therapy services may not exceed the services specified in the Business and Professions Code at Section 2620.
- (2) The LEA or SELPA shall assure that the therapist has available safe and appropriate equipment.
- (3) A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the educational standards of the Physical Therapy Examining Committee.
- (4) An occupational therapist shall be currently registered with the American Occupational Therapy Association.

5.6 G. Vision Services

Related services for the students with visual disabilities may include the following:

- (1) Adaptations in curriculum, media, and the environment, as well as instruction in special skills.
- (2) Consultative services to students, parents, teachers, and other school personnel.
- (3) The person providing services shall hold an appropriate credential with specialization in the area of the visually impaired.

5.6 H. Psychological Services

Related psychological services other than assessment and development of the IEP may include:

- (1) Counseling provided to an individual with disabilities by a credentialed or licensed psychologist or other qualified personnel.
- (2) Consultative services to parents, students, teachers and other school personnel.
- (3) Planning, managing and implementing a program of psychological counseling for eligible children and parents as specified in the IEP.

5.6 I. Parent Counseling and Training

Parent counseling and training may include:

- (1) Assisting parents in understanding the special needs of their child,
and
- (2) Providing parents with information about child development.

5.6 J. Health and Nursing Services

Related health and nursing services are designed to assist those individuals with disabilities who have health problems. Qualified personnel will provide services. Services may include the following:

- (1) Managing the student's health problems on the school site;

- (2) Consulting with staff members regarding management of the student's health problems;
- (3) Providing group and individual counseling with the students and parents regarding health problems; and
- (4) Making appropriate referrals and maintaining communication with health agencies providing care to students.

5.6 K. Specially Designed Vocational Education and Career Development
Personnel providing vocational education services shall be qualified.

Specially designed vocational education and career development for students with disabilities regardless of severity of disability may include:

- (1) Providing prevocational programs and assessing work-related skills, interest aptitudes, and attitudes;
- (2) Coordinating and modifying the regular vocational education program;
- (3) Assisting students in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community;
- (4) Establishing work training programs within the school and community;
- (5) Assisting in job placement;
- (6) Instructing job trainers and employers as to the unique needs of the students;
- (7) Maintaining regularly scheduled contact with all workstations and job-site trainers; and
- (8) Coordinating services with the Department of Rehabilitation, the Department of Employment Development and other agencies as designated in the IEP.

5.6 L. Recreation Services

Recreation services include but are not limited to the following:

- (1) Therapeutic recreation services which are those specialized instructional programs designed to assist students in becoming as independent as possible in leisure activities, and when possible and appropriate, facilitate the student's integration into regular recreation programs;
- (2) Recreation programs in schools and the community which are those programs that emphasize the use of leisure activity in the teaching of academic, social, and daily living skills; and, the provision of nonacademic and extracurricular leisure activities and the utilization of community recreation programs and facilities; and
- (3) Leisure education programs which are those specific programs designed to prepare the student for optimum independent participation in appropriate leisure activities, including teaching social skills necessary to engage in leisure activities, and developing awareness of personal and community leisure resources.

5.6 M. Specialized Services for Low Incidence Disabilities

Specialized services for low incidence disabilities may include:

- (1) Specially designed instruction related to the unique needs of students with low-incidence disabilities.
- (2) Specialized services related to the unique needs of students with low-incidence disabilities provided by qualified individuals such as interpreters, note-takers, readers, transcribers, and other individuals who provide specialized materials and equipment.
- (3) Services will be provided by appropriately credentialed teachers.

5.6 N. Services for Students with Chronic Illnesses or Acute Health Problems

Specialized physical health care services for students with chronic illnesses or acute health problems include but are not limited to:

- (1) Individual consultation;

- (2) Home or hospital instruction; and
- (3) Other instructional methods using advanced communication technology.

5.6 O. Services for Deaf and Hard of Hearing Students

Related services for deaf and hard of hearing students may include but need not be limited to:

- (1) Speech, speech reading and auditory training;
- (2) Instruction in oral, sign, and written language development;
- (3) Rehabilitative and educational services for hearing impaired individuals to include monitoring amplification, coordinating information for the annual review, and recommending additional services;
- (4) Adapting curricula, methods, media, and the environment to facilitate the learning process; and
- (5) Consultation to students, parents, teachers, and other school personnel as necessary to maximize the student's experience in the general education program.

A specially trained instructional aide, working with and under the direct supervision of the credentialed teacher of the deaf and hard-of-hearing, may assist in the implementation of the student's educational program.

Services will be provided by an individual holding an appropriate credential to provide services to the hearing impaired and who has training, experience and proficient communication skills for educating students with hearing impairments.

5.6 P. Individual and Small Group Instruction

Instruction delivered one-to-one or in a small group as specified in an IEP enabling the student(s) to participate effectively in the total school program.

5.7 REVIEW AND REVISION OF THE IEP

The IEP will be reviewed periodically, but not less than annually to determine whether the annual goals for the child are being achieved. The IEP will be revised as appropriate to address any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.

In addition, the IEP team will meet whenever the parent or teacher requests a meeting to develop, review or revise the IEP.

An IEP meeting will be held within 30 days of receipt of a written request from a parent.

The following should be included in a review

1. The results of any reevaluation,
2. Information about the child provided to, and by, the parent as required in the evaluation process;
3. The child's anticipated needs; and
4. Other matters.
5. Any lack of expected progress toward the annual goals and in the general curriculum where appropriate.

The IEP team will review progress toward previous annual goals, benchmarks (short-term objectives) if appropriate and progress in the general curriculum when developing new goals, and benchmarks if appropriate.

The general education teacher of the child as a member of the IEP shall, to the extent appropriate, participate in reviews or revisions of the IEP.

5.7 A. Making Changes and Amendments to the IEP

In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree, not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document, signed by the parent and by a representative of the local educational agency, to amend or modify the student's existing IEP.

Changes to the IEP may be made, either by the entire IEP team or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the *amendments* incorporated.

5.7 B. IEP Team Meetings Required

An individualized education program team shall meet whenever any of the following occurs:

- (a) A student has received an initial formal assessment. The team may meet when a student receives any subsequent formal assessment.
- (b) The student demonstrates a lack of anticipated progress.
- (c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program.
- (d) At least annually, to review the student's progress, the individualized education program, including whether the annual goals for the student are being achieved, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of the required members. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review. (30 EC 56343)

5.7 C. Alignment of IEP Meetings

To the extent possible, the LEA shall encourage consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

5.8 IEP MEETING PROCESS

5.8 A. Present Levels of Academic and Functional Performance

The IEP team must determine the student's present level of academic achievement and functional performance. This determination is made by looking at assessment results, input from the parents, teacher and other providers. The IEP team can then identify areas of need for the student.

5.8 B. Individual Transition Plan and Transition Services

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter. The IEP for students 16 years or younger, if appropriate must contain:

1. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
2. The transition services (including course of study) needed to assist the child in reaching these goals;

If a participating agency (other than the district) fails to provide the transition services described in the IEP, the IEP team will reconvene to identify alternative strategies to meet the transition objectives for the student; and

If an invited agency representative cannot attend the IEP meeting to develop transition services, the district will obtain agency participation in planning for these services.

Beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18.

NOTE: Refer to Section 8 Secondary Transition for more details.

5.8 C. Consideration of Special Factors

The IEP team will consider the following special factors:

Behavioral

In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.

Students with Limited English Proficiency

In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP.

For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

Students Who Have Blindness or Visual Impairment

In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines that the use of Braille is not appropriate for the child. The IEP team will make this decision after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) is conducted.

Students Who Have Deafness or are Hard of Hearing

Consider the communication needs of the child, and in the case of a child, who is deaf or hard of hearing, consider the child's language and communication needs. The IEP team will consider opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

Assistive Technology

Consider whether a child requires assistive technology devices and services.

If, in considering the above special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive a free and appropriate public education, the IEP team must include a statement to that effect in the child's IEP.

5.8 D. Developing Goals and Objectives

There must be a goal for every area of identified need. Objectives or benchmarks are required for students who participate in an alternate statewide assessment (CAPA). Goals must contain the following components:

1. Baseline (related to goal)
2. Who (the child)
3. Does what (measurable behavior)
4. When (reporting date)
5. Given what (conditions)
6. How much (mastery criteria)
7. How measured (performance data or assessment)

IEP goals should be based on the academic content standards for the grade in which the student is enrolled.

5.8 E. Discussion of Options Considered

Prior to determining the actual special education and related services, the IEP team must discuss and document all options that were considered.

5.8 F. Supplementary Aids and Services

Supplementary aids and services means aids, services, and other supports that are provided in general education classes or other education-related settings and in extracurricular and nonacademic settings, to enable individuals with exceptional needs to be educated with nondisabled children to the maximum extent appropriate.

(EC 56033.5)

Supplementary aids and services are often critical elements in supporting the education of students with disabilities in regular classes and their participation in a range of other school activities.

Supplementary aids and services can be accommodations and modifications to the curriculum under study or the manner in which that content is presented or a student's progress is measured. Supplementary aids and services can also include direct services and supports to the child, as well as support and training for staff who work with that child. That's why determining what supplementary aids and services are appropriate for a particular student must be done on an individual basis.

5.8 G. Determination of Special Education and Related Services

The IEP team determines the special education and related services that are needed to implement the goals for the student to receive educational benefit in the least restrictive environment. The special education and related services including ESY if needed must be documented to include frequency, duration and location.

5.8 H. Extended School Year (ESY)

Extended School Year Programming Guidelines

Pursuant to Section 300.309 of Title 34 of the Code of Federal Regulations, extended school year services (ESY) shall be included in the IEP and provided to the pupil if the IEP team determines, on an individual basis, the services are necessary for the provision of a free appropriate public education (FAPE).

The need for Extended School Year ("ESY") programming must be considered and documented annually on the IEP for every student receiving special education services. The need for ESY programming may be addressed at any IEP meeting. The IEP meeting addressing ESY should take place a reasonable time prior to the commencement of the extended break.

Determination of ESY Eligibility and Programming

ESY programming must be provided to eligible students at no additional cost to parents. The IEP team shall determine the need for ESY eligibility and programming considering the following factors:

Nature and severity of the disability The more severe the disability, the higher the probability that the student will need ESY services.

Current IEP goals and objectives If progress on meeting these goals has been very slow; the student may need ESY services to continue to make progress in support of FAPE.

Emerging skills and breakthrough opportunities If a student is just beginning to communicate or accomplish self-care skills a temporary break may cause a setback.

Interfering behaviors Behavior may have an impact of student's ability to make educational progress.

To prevent serious regression during an extended break The Worksheet for Determining Extended School Year Programming may be used along with the regression/recoupment data collection sheet. If the student has continued to progress educationally from year to year despite the lack of ESY programming, ESY may not be necessary to ensure FAPE. Additionally however, there does not need to be a pattern of regression previously but team needs to consider whether there is a likelihood of regression based on knowledge of student.

Rare and unusual circumstances ESY services are more likely to be necessary for students who have been absent for extended periods of time or for students moving from restrictive placements to inclusive programs. If ESY programming is recommended, then the IEP team shall a) identify the specific goals that are to be addressed, and b) include the specific nature of the program and services on the IEP, including the, frequency, duration and location.

Definitions:**Regression/Recoupment**

All students experience some regression and loss over an extended break. In most instances these skills are re-mastered (recouped) within a reasonably short period of time. However, some special needs students have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the student's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self sufficiency and independence that would otherwise be expected in

view of his or her disabling condition. However, the lack of clear evidence of such factors may not be used to deny a student an ESY program if the team determines the need for ESY programming. Thus, when a student experiences more than minimal regression and he/she is not able to recoup skills within a short period of time the provision of a free appropriate public education means that instruction and/or related services must also be provided during an extended break.

Extended Break

Extended break means a period of time when school is not in session such as summer break, school holidays and when school is off-track or on intersession.

Extended School Year Programming

ESY services are special education and related services that are tailored to each student to help him or her meet specific goals in his/her IEP to support the delivery of FAPE for the individual student as appropriate.

What Extended School Year Is and Is Not

Extended School Year (ESY) is:

- Based only on the individual student's specific critical skills that are critical to his/her overall education progress as determined by the IEP team;
- Designed to maintain student mastery of critical skills and objectives represented on the IEP and achieved during the regular school year;
- Designed to maintain a reasonable readiness to begin the next year;
- Focused on specific critical skills when regression, due to extended time off, may occur;
- Based on multi-criteria and not solely on regression;
- Considered as a strategy for minimizing the regression of skill in order to shorten the time required to gain the same level of skill proficiency that existed at the end of the school year.

Extended School Year (ESY) is not:

- It is not a mandated 12-month service for all students with disabilities;
- It is not required to function as a respite care service;
- It is not funded by General Fund;
- It is not required or intended to maximize educational opportunities for any students with disabilities.
- It is not necessary to continue instruction on all the previous year's IEP goals during the ESY period;

- It is not compulsory. Participation in the program is discretionary with the parents, who may choose to refuse the ESY service. There may be personal and family concerns that take precedence over ESY;
- It is not required solely when a child fails to achieve IEP goals and objectives during the school year;
- It should not be considered in order to help students with disabilities advance in relation to their peers;
- It is not for those students who exhibit random regression or regression solely related to the transitional life situation or medical problems which result in degeneration;
- It is not subject to the same LRE (Least Restrictive Environment) environment considerations as during the regular school year as the same LRE options are not available (example, mainstreaming in regular education classroom when district does not offer Summer School, CCR3043(h)). Additionally, LRE for some students may be home with family members;
- It is not a summer recreation program for students with disabilities;
- It is not to provide a child with education beyond that which is prescribed in his/her IEP goals and objectives.

FEDERAL REGULATIONS

Legal References Regarding ESY Services

Individuals with Disabilities Education Act (34 CFR Part 300, Section 300.309, "Extended School Year Services".

(A) General.

- (1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE;
- (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with Sections 300.340-300.350, that the services are necessary for the provision of FAPE to the child;
- (3) In implementing the requirements of this section, a public agency may not -
 - (i) Limit extended school year services to particular categories of disability; or
 - (ii) Unilaterally limit the type, amount or duration of those services.

(B) Definitions. As used in this section, the term "extended school year services" means special education and related services that -

- (1) Are provided to a child with a disability -
 - (i) Beyond the normal school year of the public agency;
 - (ii) In accordance with the child's IEP, and
 - (iii) At no cost to the parents of the child, and

- (2) Meet the standards of the SEA.

Section 300.24. Related services (excerpt).

- (A) General. As used in this part, the term related services means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech/language pathology and audiology services, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children. Counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school services, social work services in schools, and parent counseling and training.
- (B) Individual terms defined. The terms used in this definition are defined as follows:
- (1) Transportation includes:
- (i) Travel to and from school and between schools;
 - (ii) Travel in and around school buildings, and
 - (iii) Specialized equipment (such as special or adapted buses, lifts and ramps) if required to provide special transportation for a child with a disability.

CALIFORNIA CODE OF REGULATIONS (CCR 3043)

Legal References Regarding ESY Services

Section 3043. Extended School Year

Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoument capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such program and includes extended school year in the individualized education program pursuant to subsection (f):

- (A) Extended year special education and related services shall be provided by a school district, Special Education Local Plan Area, or county office offering programs during the regular academic year;

- (B) Individuals with exceptional needs who may require an extended school year are those who:
- (1) Are placed in special classes or centers, or
 - (2) Are individuals with exceptional needs whose individualized education programs specify an extended year program as determined by the Individualized Education Program (IEP) team.
- (C) The term "extended year" as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term "academic year" as used in this section means that portion of the school year during which the regular day school is maintained, which period must include not less than the number of days required to entitle the district, special education services region, or county office to apportionments of State funds.
- (D) An extended year program shall be provided for a minimum of 20 instructional days, including holidays. For reimbursement purposes:
- (1) A maximum of 55 instructional days excluding holidays shall be allowed for individuals in special classes or centers for the severely handicapped, and
 - (2) A maximum of 30 instructional days including holidays shall be allowed for all other eligible pupils needing extended year.
- (E) A local governing board may increase the number of instructional days during the extended year period, but shall not claim revenue for average daily attendance generated beyond the maximum instructional days allowed in subsection (D)(1) and (2);
- (F) An extended year program, when needed, as determined by the IEP team, shall be included in the pupil's IEP;
- (G) In order to qualify for average daily attendance revenue for extended year pupils, all of the following conditions must be met:
- (1) Extended year special education shall be the same length of time as the school day for pupils of the same age level attending summer school in the district in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the individualized education program to meet a pupil's unique needs;
 - (2) The special education and related services offered during the extended year period are comparable in standards, scope and quality to the special education program offered during the regular academic year.

SECTION 5

- (H) If during the regular academic year an individual's IEP specifies integration in the regular classroom, a public education agency is not required to meet that component of the individualized education program if no regular summer school programs are being offered by that agency
- (I) This section shall not apply to schools which are operating a continuous school program pursuant to Chapter 5 (commencing with Section 37600) of Part 22, Division 3, Title 2 of the Education Code.

Authority cited: Section 56100(a) and (j), Education Code.

Reference: Sections 37600, 419765.5 and 56345; 34 C.F.R. 300.346

NOTE: Refer to Appendices E, F and G for more information on determining the need for ESY.

5.9 INDIVIDUALIZED EDUCATION PROGRAM: TRANSITIONS

5.9 A. Transition from Preschool to Elementary School

Prior to transitioning a child with disabilities from a preschool program to kindergarten, or first grade as the case may be, an appropriate reassessment of the child shall be conducted to determine if the child is still in need of special education and services.

As part of the transition process, a means of monitoring the continued success of the child who is determined to be eligible for less intensive special education programs.

As part of the exit process from special education, the present performance levels and learning style shall be noted by the IEP team. This information shall be made available to the assigned general education teacher upon the child's enrollment in Kindergarten or first grade as the case may be.

5.9 B. Transition from Special Class or Center or from Non-Public, Nonsectarian School to the General Education Classroom in the Public School

SECTION 5

When students transfer into the general education classroom from special classes or centers, or from nonpublic, nonsectarian school to the general education in the public school the IEP will include the following:

1. A description of activities provided to integrate the child into the general education program indicating the nature of each activity and the time spent on the activity each day or week; and
2. A description of the activities provided to support the transition of students from the special education program into the general education program.

5.9 C. Secondary Transition

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter. The IEP for students 16 years or younger, if appropriate must contain:

1. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
2. The transition services (including course of study) needed to assist the child in reaching these goals.

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| NOTE: Refer to Chapter 8 Secondary Transition for more information. |
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5.10 EDUCATIONAL BENEFIT

Board of Education v. Rowley 1982 was decisive in defining the term *educational benefit*. The Supreme Court concluded that the IDEA does not require that LEAs maximize the potential of students with disabilities. The intent of the IDEA was more to open the door of public education to students with disabilities rather than guarantee any particular level of education once inside.

5.10 A. Components of Educational Benefit Analysis

Based on procedural requirements, including:

1. The assessment is complete and the child is assessed all areas of suspected disability
2. The IEP team identifies needs related to:

- the child's disability
 - involvement and progress in the general curriculum
3. Goals are established in each need area
 - Objectives are developed for students taking CAPA
 4. Services are planned to support:
 - Progress towards all goals
 - Progress in the general curriculum
 - Participation in the general education environment
 - Education with other students with disabilities and typically developing peers
 5. The IEP team reviews the student's progress and adjusted the IEP if progress was not made or to address other needs.

5.10 B. Definition of FAPE

Free Appropriate Public Education (FAPE) means special education and related services that:

1. Are provided at public expense;
2. Meet the standards of the State;
3. Include pre-school, elementary or secondary school and education through the 22nd birthday if appropriate; and
4. Are provided in conformity with the IEP.

5.11 INTERIM PLACEMENTS

5.11 A. Transfers to District from District outside of the SELPA

If the child has an IEP and transfers into a district from district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents, for a period not to exceed 30 days, by which time the LEA shall adopt the previously approved IEP or shall develop, adopt, and implement a new IEP that is consistent with federal and state law.

5.11 B. Transfers from District to District within the Southwest SELPA

If the child has an IEP and transfers into a district from a district operating under the same special education local plan area of the district in which he or she was last enrolled in a special education program

within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless the parent and the LEA agree to develop, adopt and implement a new IEP that is consistent with federal and state law. It is recommended that at least an IEP Amendment be done to reflect the change in location and provider.

5.11 C. Transfers from District to District from Outside of State

If the child has an IEP and transfers from an educational agency outside the state to a district within the state within the same academic year, the LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents, until the LEA conducts an assessment.

In order to facilitate the transition of an individual with exceptional needs, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records.

Upon receipt of a request from an educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, to the new educational agency with five working days. (EC 56325)



IEP Meeting Agenda for
(Student)
(DATE)
DRAFT

1. Introductions
2. Review Drafted Agenda and Make Corrections
3. Parent Rights and Procedural Safeguards
4. Student Strengths
5. Parents' Concerns
6. Present Assessment Results (if assessment was conducted) **AND/OR**
Present Levels of Performance
7. Review drafted goals and objectives
8. Review drafted positive behavior support plan (if behavior plan is needed)
9. Review Placement and Services Options
10. Team Offer of FAPE
11. Review of Summary Notes
12. Review IEP paperwork
13. Signatures

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SOUTHWEST SELPA

IEP FACILITATOR CHECKLIST

Before the Meeting

- _____ Determine who will write the IEP
- _____ Choose and IEP team facilitator

At the Meeting

Bring to the meeting:

- _____ Copies of assessment reports
- _____ Laptop computer with internet access
- _____ IEP forms if not able to access SEIS online
- _____ Spanish IEP forms (if applicable)
- _____ Release of Information form
- _____ Parents' Rights and Procedural Safeguards
- _____ Pupil file (last IEP, reports, etc.)
- _____ Student work samples/portfolio/charting progress samples
- _____ Positive attitude

Step 1. **Introductions**

- _____ Introduction of IEP Team Members including the parents
- _____ Written agenda (note time constraints if any with excusals if noted)
- _____ Purpose of the meeting: *Review the program and process*
- _____ Set a positive tone
 - _____ Make positive statements about the student
 - _____ - *It's OK to ask questions* – Be family focused
 - _____ Ask parent(s) to share their child's strengths
- _____ Provide a copy of Parent's Rights and Procedural Safeguards to the parent(s). Ask if they have any questions or if they want any sections explained. Note this as well as the parent(s)' response in the notes.
 - _____ Review Student information for accuracy
 - _____ Current address
 - _____ Current phone
 - _____ Correct name spelling
 - _____ Correct DOB

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Step 2. Review Information

- _____ Complete student strengths and parent Priorities/Concerns
- _____ Determine or review current eligibility, write in terms/words the parent understands, discuss how this decision was made
- _____ Review of assessments and data (i.e., documentation, standardized, portfolio, work samples, pupil progress) to document pupils unique needs (avoid reading reports verbatim)
which includes:
 1. Nurse
 2. School Psychologist
 3. General Education teacher, SDC teacher, RSP teacher
 4. DIS provider/all others
- _____ Review of previous goals and objectives
- _____ Parent comments/input. Check for understanding and agreement as the meeting progresses.
- _____ Review Present Levels of Performance (PL●PS)

Step 3. Develop Annual Goals and Short-term Objectives

- _____ Goals are measurable, annual goals tied to content standards
- _____ Review previous goals and objectives. State if met, progress, not met and include documentation.
- _____ Review new, proposed *Draft* goals in all areas of eligibility: academic; prevocational/vocational; social emotional/self esteem; transition (if appropriate); speech/language; gross and/or fine motor; behavior (if appropriate); adaptive skills; adaptive physical education; counseling; transportation, etc.
- _____ Develop measurable benchmark objectives – one per each progress reporting period
- _____ Address accommodations/modifications based on goals/unique needs

Step 4. Develop Related/DISServices

- _____ After team members review previous goals, objectives and services in each area of need, note if student is receiving educational benefit with this level of service.

_____ Team members propose and discuss services (ongoing and/or new) relative to student's unique needs; PLOPS; and, new Annual Goals and Short-term Objectives:

- _____ Document services to be provided
- _____ Delivery/Class Type
- _____ Start/End Date
- _____ Session(s) Times/Minutes
- _____ Frequency
- _____ Duration (Total Minutes)
- _____ Provider (i.e., Title, NPA, etc. Do not use names of service providers)
- _____ Location

Step 5. Develop Placement

- _____ Explain and document the complete/full continuum of placement options
- _____ *Always* discuss General Education with supports first.
- _____ Discuss where the services can support the student making progress towards meeting his/her annual goals and short-term objectives
- _____ Document to what extent the student will participate in general Education (# of minutes, %, activities, etc.)
- _____ Document other resources and specific needs identified
- _____ Document if parent requests nonpublic schools, 1:1 aide, specific materials, specific techniques, increased related/DIS services on a supplemental page and respond to each request appropriately.
- _____ Obtain and note parent input/agreement for placement option

Step 6. Exit Criteria (Specific to District and if applicable)

- _____ Assessment required
- _____ Discuss proficiencies and differential standards/diploma
- _____ *Discuss non diploma options*
- _____ Discuss placement options beyond grade 12 (as needed)
- _____ Transition planning – Required beginning at age 16 *BUT* best practice is to begin earlier – by age 14
- _____ Transition: students exiting special education, reintegration, or moving between school programs



Step 7. Additional IEP Sections

- _____ Discuss State/District assessments
- _____ Discuss communication/language status (ELL page)
- _____ Discuss Behavior Support Plan
- _____ Discuss assistive technology needs
- _____ Discuss progress reporting
- _____ Discuss three year re-evaluation

Step 8. Review, Agreement, Follow-up

- _____ Complete all the paperwork
- _____ Note any additional input from parent/student
- _____ IEP team meeting facilitator/administrator designee reviews and summarizes the team notes
- _____ Team members sign their attendance
- _____ Parent(s) sign attendance/agreement/disagreement
- _____ Note consent/disagreement of all portions of the IEP
- _____ Provide information on Notification of Appeal/Due Process Hearing Procedures (as required)
- _____ Distribute copies of the IEP
- _____ Additional follow-up (e.g., letter for parents not in attendance; translation; possible district notice/response to parent request for service [prior written notice]).

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BEST PRACTICES

ADAPTATIONS, ACCOMMODATIONS & MODIFICATIONS

Federal and State Guidance

The inclusion of all students in statewide assessment and accountability systems is not merely a legal obligation; it is a mechanism for ensuring that all students, including those with disabilities, are included in the general education curriculum. Federal and state laws stress the importance of documenting accommodations and/or modifications for instruction and assessment in the student's IEP as noted below:

- . . . a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child [Title 20 U.S.C. 1414 Section 614 (d)(1)(A)(IV)]
- A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and district wide assessments [in Title 20 noted above and 30 EC 56345]

Access to the General Education Curriculum

The IDEA and California Education Code require that each identified child with a disability is provided access to the general education curriculum. An ideal model works with the student to gain the most out of the content material and maximizes the students' ability to access the curriculum. Supports should not be determined by the disability label; instead supports should be used when the instructional or social activity warrants the need for assistance. A comprehensive service delivery model will include the options of making adaptations, accommodations, and/or modifications to the general education curriculum.

Selecting Accommodations for Instruction

The CDE Accommodations Guide showcases the seven-step INCLUDE model for selecting what to try for instructions.

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1. **Identify Classroom Demands:** This involves analyzing the content being taught, how it is being presented, and how students are expected to respond. Other factors to consider are the physical setting, social demands, level of sustained attention required, and prerequisite skills.
2. **Note Student Strengths and Needs:** It is important to know the common characteristics of the student's disability and their effect on learning. Equally important is a student's unique profile of interests, strengths and needs.
3. **Check Potential Areas of Student Success:** Predict which tasks or portions of a task the student will be able to succeed in without adaptations. Teams should avoid over-accommodating or providing unnecessary accommodations.
4. **Look for Potential Problem Areas:** Given knowledge about the student and the demands of the tasks, each potential problem area should be identified.
5. **Use Information to Brainstorm Accommodations**
6. **Decide which Accommodations to Implement:** Decide on strategies to be used. Teach the student, and possibly the staff, on how to use the accommodation strategies.
7. **Evaluate Student Progress:** Evaluate student progress while using the accommodations to see if it makes a difference in student performance. If yes, then consider writing it into the IEP.

Once appropriate accommodations have been identified as effective in mitigating the effects of the student's disability, staff members need to ensure that they are being administered correctly. The case manager should ensure the student knows how to use the accommodation effectively. The staff working with the student need to understand the purpose and appropriate manner to provide the accommodations.

Adaptations to the Core Curriculum

An adaptation is an intervention that retains the learning outcomes of the prescribed curriculum or performance standards and is implemented so that students can more effectively or productively participate in the classroom program.

Adaptations may include some of the strategies listed below:

- **Rate adjustment** – more time to process or complete a task, un-timed tests
- **Strategy Instruction** – Show students a technique to strengthen a breakdown point such as rehearsal and self-testing.
- **Use of supports or aids** – such as a calculator, assistive technology, etc.



- **Volume adjustment** – given a smaller amount of material to produce or process (fewer math problems, shorter report, etc.)
- **Format Adjustment** – presented in a manner that the student can process more effectively (books on CD, oral reports, etc)
- **Feedback System** – use of alternative evaluations such as performance assessments, authentic assessments, daily or weekly assessment, variety of types of tests
- **Prioritization** – certain task components are stressed over others; for example , the student is asked to concentrate on the ideas rather than the spelling or grammar; use of the writing process (editing and proofreading at the end)

Accommodations

An accommodation is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attributes that provides access for a student with a disability to participate in a course, standard or test, and does not fundamentally alter or lower the standard or expectation of the course, standard or test. Accommodations provide students with disabilities and equal opportunity to participate in the general education curriculum.

CDE's Accommodations Guide provides the following information and examples.

- **Presentation:** allow students to access information in ways that do not require them to visually read standard print. These alternate modes of access are auditory, multi-sensory, tactile, and manual.
Example: A student with visual impairment may require or may use Braille.
- **Response:** allow students to complete activities, assignments, and assessments in different ways or to solve or organize problems using some type of assistive device or organizer.
Example: A student may require an alternative method of responding, such as using a scribe.
- **Setting:** change the location in which an assignment or a test is given or the conditions of the assessment setting.
Example: A student may need to work in a separate room or away from the group.
- **Timing and Scheduling:** increase the typical length of time to complete an assignment or assessment and perhaps change the way the time allotted is organized.
Example: A student may take as long as reasonably needed to complete an assessment, including taking portions over several days.

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Based on the “Nine Types of Curriculum Adaptations” by Diana Browning Wright the following adaptations are considered an accommodation if the student can demonstrate mastery of the standard on an assessment.

- **Quantity** – Adapt the number of items that the learner is expected to learn or number of activities a student will complete prior to assessment for mastery.
- **Time** – Adapt the time allotted and allowed for learning, task completion, or testing.
- **Level of Support** – Increase the amount of personal assistance to keep the student on task or to reinforce or prompt use of specific skills.
- **Input** – Adapt the way instruction is delivered to the learner by using visual aids, enlarged text, concrete examples, hands-on activities and/or pre-taught lessons.
- **Difficulty** – Adapt the skill level, problem type or the rules on how the learner may approach the work through the use of a calculator or simplify task directions.
- **Output** – Adapt how the student can respond to instruction.
- **Participation** – Adapt the extent to which a learner is actively involved in the task.

Modifications

An adaptation is considered a modification if the student will not demonstrate mastery of the standard on an assessment. A modification is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attribute that provides access for a student with a disability to participate but fundamentally alters or lowers the standards or expectations.

The CDE Accommodations Guide notes that using modifications may result in implications that could adversely affect students throughout their educational careers. Modifications can increase the gap between achievement of students with disabilities and expectations for proficiency at a particular grade level. A modified program has learning outcomes which are substantially different from the prescribed curriculum, and specifically selected to meet the student’s special needs. Therefore, it is recommended that the IEP team members discuss the impact of modified program/grades on the requirements for graduation requirements. For example, a ninth grade student in a modified math program might be focused on functional computation skills in the context of handling money and personal budgeting.

Based on the “Nine Types of Curriculum Adaptations” by Diana Browning Wright the following are considered a modification if the student will not demonstrate mastery of the standard on an assessment. If routinely utilized, these adaptations are modifications.

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- **Alternate Goals** – Adapt the goals or outcome expectations while using the same materials.
Example: A student may identify colors of the states on the map while other students identify each state and capitol.
- **Substitute Curriculum** – Sometimes called “functional curriculum”, provide different instruction and materials to meet a learner’s individual goals.
Example: A student learns to follow the toileting routine.



BEST PRACTICES

GRADING STUDENTS WITH DISABILITIES

The most effective grading practices provide accurate, specific, and timely feedback designed to improve student performance. Grading practices for students with disabilities, particularly report cards, need to be:

- individualized
- understandable
- reflective of instruction delivered
- aligned to accountability models
- informative to parents about what and how their child is doing
- meaningful
- based on assessment data

Federal and State Perspectives

The Office for Civil Rights (OCR)

The Office for Civil Rights (OCR) has no enforcement authority under IDEA. However, OCR has enforcement responsibilities under two of the applicable federal laws: Title 11 of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 (Section 504). Title II prohibits discrimination on the basis of disability by public entities, including public school systems, regardless of federal financial assistance. Section 504 requires local education agencies (LEAs) to provide a free appropriate public education (FAPE) to qualified individuals with disabilities in their jurisdiction. Section 504 prohibits discrimination on the basis of disability in programs or activities receiving federal financial assistance. This means that with respect to grades, class ranking, honor rolls, graduation, and diplomas, students with disabilities must be treated the same as all students.

Section 504 and Title II do not have specific provisions addressing report cards or transcripts. While the laws prohibit public entities from treating person d differently on the basis of disability, they may provide a different aid, benefit or service to persons with disabilities where necessary to provide supports that are as effective as that provided by others. Among the aide, benefits and services provided to students and parents are report cards and transcripts.

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OCR has determined it would be a violation for a student's transcript to indicate the student received accommodations in a general education classroom. In addition, transcripts may not indicate that a student has been enrolled in a special education program. However, a transcript may indicate that a student took classes with a modified or alternate education curriculum. In one investigation, OCR found classes on a transcript designated as Independent Learning Center do not violate the ADA or Section 504 regulations. These classes used similar materials but covered less information and focused on different concepts and content than the regular classes.

The Office of Special and Rehabilitative Services (OSERS)

OSERS administers the Individuals with Disabilities Education Act (IDEA). IDEA does not have specific provisions on student report cards or transcripts. However, it requires that the individualized education program (IEP) for a student with a disability include a description of (1) how the student's progress toward meeting the annual goals set forth in his or her IEP will be measured and (2) when periodic reports on the student's progress toward meeting the annual goals will be provided. These progress reports may be separate from or included as part of the regular report cards.

The Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) protects the privacy interests of parents and students with regard to educational records. In general, a policy or practice of disclosing personally identifiable information from educational records without consent is prohibited except under specific exceptions. Disability status, reports cards, and transcripts are subject to the protections of FERPA and IDEA.

The California Department of Education (CDE)

The California Department of Education (CDE) guidance on grading students with disabilities is incorporated into this document in relevant sections. Please refer to www.cde.gov for more information.

The Office of Administrative Hearings (OAH)

Individual case decisions made through the Office of Administrative Hearings (OAH) and/or the court system that do not generalize are not incorporated into these guidelines. Those



seeking more specific California case histories may want to research the OAH website at www.oah.dgs.ca.gov/Special+Education/default.htm

Educational Benefit

The legal basis for educational benefit was decided June 28, 1982 in the *Board of Education v. Rowley* decision of the United States Supreme Court. The Supreme Court tried to strike a balance in defining the meaning of free appropriate public education (FAPE). The following concepts are pulled from Justice Rehnquist statements:

- *If personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and other items on the definitional checklist are satisfied, the child is receiving a 'free appropriate education' as defined by the Act.*
- *The Act consists of access to specialized instruction and related services which are individually designed to provide education benefit to the child with a disability.*
- *Congress did not impose upon the states any greater substantive educational standard than general education. Indeed, Congress expressly recognized the process of providing special education and related services is not guaranteed to produce any particular outcome.*
- *However, it would do little good for Congress to spend millions of dollars in providing access to public education only to have the child with a disability receive no benefit from that education.*
- *If the child is being education in the regular classrooms of the public education system, such instruction should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.*

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) continued the dialog of these issues by stating the following:

- *Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.*
- *As used in this part, the term special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. [34 CFR 300.39(a)(1)]*
- *Specially-designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction –
(i) To address the unique needs of the child that result from the child's disability; and
(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children." [34 CFR 300.39(a)(3)]*



California Department of Education (information from the CDE website)

1. Should a student's grade reflect that accommodations have been made for that student to access the general education curriculum?

No. A student's grade should not reflect that accommodations have been made. Accommodations provide students with disabilities an equal opportunity to participate in the general education curriculum.

An accommodation is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attributes that provides access for a student with a disability to participate in a course, standard or test, and it does not fundamentally alter or lower the standard or expectation of the course, standard or test.

The Matrix of Test Variations, Accommodations and Modifications for Administration of California Statewide Assessments (Oct-2007; DOC; 2.2MB; 6pp.) has examples of accommodations.

2. May a student's grade reflect that modifications have been made for that student to access the general education curriculum?

Yes. If modifications have been made to the curriculum of any course, it is important that the student's grade reflect the student's achievement in the modified curriculum, as long as modified grades are available to all students. However, any modifications to programming, instruction, and grading must be documented in the student's IEP and be directly related to the student's disability. To automatically give modified grades to all special education students would be discriminatory and potentially violate Section 504 of the Rehabilitation Act of 1973.

A modification is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attribute that provides access for a student with a disability to participate in a course, standard or test, and it does fundamentally alter or lower the standard or expectation of the course, standard or test.

The Matrix of Test Variations, Accommodations and Modifications for Administration of California Statewide Assessments (Oct-2007; DOC; 2.2MB; 6pp.) has examples of modifications.

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3. May some type of symbol or code be used on a student's report card to indicate that the student has had a modified curriculum in the general education classroom?

Yes. A symbol or code may be used on a student's report card to indicate that the student has had a modified curriculum in the general education classroom. However, this type of coding should not be used solely for students with disabilities. A policy should be developed that applies to all students.

4. May pass/fail grades be used for students with disabilities in the general education classroom?

Yes. A student with disabilities may be given a pass/fail grade as long as participation in this grading system is voluntary and is available to all students. In addition, the grading system must meet the student's special needs and must be documented in the IEP.

5. May a student's transcript indicate that the student participated in a modified curriculum?

Yes. The purpose of the transcript is to present an accurate picture of a student's coursework. If the curriculum content has been modified, the transcript may reflect that modification through some type of symbol or code that indicates that the student received modified grades or completed work at a lower grade level. The explanation of the symbol or code cannot indicate that the student has a disability or that the student is in special education. Information regarding a disability may be indicated on the transcript if the student or the parent of the student gives written consent for the information to be released to a postsecondary institution or employer.

The CDE Accommodations Guide notes that using modifications may result in implications that could adversely affect students throughout their educational careers. Modifications can increase the gap between achievement of students with disabilities and expectations for proficiency at a particular grade level. A modified program has learning outcomes which are substantially different from the prescribed curriculum, and specifically selected to meet the student's special needs. Therefore, it is recommended that the IEP team members discuss the impact of modified program/grades on the requirements for graduation requirements. For example, a ninth grade student in a modified math program might be focused on functional computation skills in the context of handling money and personal budgeting.

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ESY WORKSHEET

Note: This worksheet provides guidance to IEP teams when making ESY decisions.

1. The student demonstrates a pattern of past regression as evidenced by breaks of more than four weeks: Yes No Unknown

Comments (describe the degree (minimal or serious) of actual or likely regression following a school break:

2. What is the estimated amount of time it takes or it may take the student to regain the prior level of knowledge skills, benefits or functioning following a school break:

- One month or less Up to 3 months 4 to 6 months
 Other _____

Comments: _____

3. Describe the student's rate of learning (as compared with the student's ability to recoup skills after a break):

4. Does the IEP team feel the student's disability will continue indefinitely or for a prolonged period of time? Yes No Unsure

Describe the degree, nature and severity of the student's disability:

5. Does the IEP team feel it will be impossible or unlikely the student will attain self-sufficiency and independence expected in view of his/her disability following a break? Yes No Unsure



6. Is the student at a critical point of skill acquisition or readiness, and his/her ability to acquire the skills will be lost or greatly reduced as a result of: (a) an interruption of services; and/or (b) by an escalation of previously reduced behaviors?

Yes No Unsure

If yes, describe:

7. Are there other issues concerning the student's physical, medical condition, emotional, social, behavioral, mental health, family, academic and/or vocational issues, and his/her ability to be with typically developing peers that may be adversely impacted if the student does not receive ESY services?

Yes No Unsure

If yes, describe: _____



Extended School Year (ESY) Regression/Recoupment Capacity Worksheet

Student Name _____ School _____ Age _____ Grade _____ Date _____

Primary Disability _____ Education Placement _____ DIS Services _____

| Current IEP: Date: _____ Assessment Area: | Pre-Break Present Levels of Performance Date: _____ (Describe levels based on measurable data- prior to an academic break of 2 weeks or more.) If additional space is needed, include attachments. | Post -Break Present Levels of Performance Date: _____ (Describe levels based on measurable data- after returning from break.) If additional space is needed, include attachments. | *Regression/ Recoupment If regression is noted, record the time required to recoup Pre-Break levels (i.e. 4 days, 2 weeks...). | ESY Recommended Yes/No ESY is recommended in noted areas below based on regression and recoupment data. |
|--|--|---|---|---|
| Communication | | | | |
| Reading | | | | |
| Written Expression | | | | |
| Math | | | | |
| Behavior | | | | |
| Fine Motor | | | | |
| Gross Motor | | | | |
| Self Help | | | | |
| Social Emotional | | | | |
| Other: | | | | |

*When considering ESY for any student, the IEP team must consider data collected during the previous year(s) to determine the student's need based on regression and recoupment. After a three month summer break it is reasonable to expect that, after eight weeks of instruction and re-teaching, the student should have regained or recouped last Spring's performance levels. It is common that the re-teaching time be equal to the length of the break. If data shows that this is not the case, a regression/recoupment problem may exist.



**EXTENDED SCHOOL YEAR (ESY)
SERVICES WORKSHEET
REGRESSION RECOUPMENT CONSIDERATIONS**

This document may be used to help guide the IEP team in determining if ESY services are warranted.

Student Name: _____ DOB: _____ Grade: _____

1. Considerations in areas of need

Teacher Observations:

Running Records:

Benchmark Measures:

Progress toward Goals/Objectives:

Evidence of regression following break:

Ability to recoup information following break:

EXTENDED SCHOOL YEAR (ESY)
SERVICES WORKSHEET

Student Name: _____ DOB: _____ Grade: _____

2. ESY Checklist

- YES NO Nature and/or Severity of Disability
The student demonstrates a severe disability in one or more areas. Without ESY services, will the nature and/or severity of the student's disability prohibit the student from receiving benefit from his/her educational program during the subsequent return to school?
- YES NO Regression and Recoupment (refer to *Regression & Recoupment Considerations*)
Is there documentation that without ESY services, the child is likely to lose critical life skills or fail to recover these skills within a reasonable time?
- YES NO Degree of Progress
Without ESY services, will the student's progress toward IEP goals related to critical life skills be limited in the subsequent return to school?
- YES NO Emerging Critical Life Skills/Break Through Opportunities
Without ESY services, will the lengthy school break cause significant problems for the student in learning a critical life/school skill?
- YES NO Interfering Behavior
Without ESY services, will the interruption of programming which addresses interfering behaviors (i.e. stereotypic, ritualistic, aggressive, or self injurious behavior) targeted by IEP goal(s) and/or Positive Behavior Support or Intervention Plan be likely to prevent the student from receiving benefit from his/her educational program during the subsequent return to school?
- YES NO Special Circumstances
Without ESY Services, are there any special circumstances that interfere with the student's ability to benefit from his/her educational program during the subsequent return to school? If yes, explain: _____



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3. IEP Team Determination

Did the IEP Team answer YES to at least three of the above? YES NO

If yes, ESY service(s) is/are required to provide this student with a free appropriate public education (FAPE).

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CASEMIS CODES

SERVICE

These codes are used to indicate the student's services.

| Code | Service Categories |
|------|--|
| 210 | Family training, counseling, and home visits (0-2 years old only) |
| 220 | Medical services (for evaluation only) (0-2 only) |
| 230 | Nutrition services (0-2 years old only) |
| 240 | Service coordination (0-2 years old only) |
| 250 | Special instruction (0-2 years old only) |
| 260 | Special education aide in regular development class child care center or family child care home (0-2 years old only) |
| 270 | Respite care services (ages 0-2 years old only) |
| 330 | Specialized Academic Instruction |
| 340 | Intensive Individual Services |
| 350 | Individual and small group instruction (30 EC 56441.2, 5 CCR 3051) (ages 3-5 only) |
| 415 | Language and speech |
| 425 | Adapted physical education |
| 435 | Health and nursing - specialized physical health care services |
| 436 | Health and nursing - other services |
| 445 | Assistive technology services |
| 450 | Occupational therapy |
| 460 | Physical therapy |
| 510 | Individual counseling |
| 515 | Counseling and guidance |
| 520 | Parent counseling |
| 525 | Social work services |
| 530 | Psychological services |
| 535 | Behavior intervention services |
| 540 | Day treatment services |
| 545 | Residential treatment services |
| 610 | Specialized services for low incidence disabilities |
| 710 | Specialized deaf and hard of hearing services |
| 715 | Interpreter services |
| 720 | Audiological services |
| 725 | Specialized vision services |
| 730 | Orientation and mobility |
| 735 | Braille transcription |
| 740 | Specialized orthopedic services |
| 745 | Reader services |



SECTION 5
APPENDIX H

| Code | Service Categories |
|------|--|
| 750 | Note taking services |
| 755 | Transcription services |
| 760 | Recreation services, includes therapeutic recreation (34 CFR 300.24) |
| 820 | College awareness/preparation |
| 830 | Vocational assessment, counseling, guidance, and career assessment |
| 840 | Career awareness |
| 850 | Work experience education (34 CFR 300.26) |
| 855 | Job coaching (includes job shadow and service learning) |
| 860 | Mentoring |
| 865 | Agency linkages (referral and placement) |
| 870 | Travel training (includes mobility training) |
| 890 | Other Transition Service |
| 900 | Other special education/related service (must be in Local Plan) |

PROVIDER

These codes are used to indicate the student's services' provider.

| Code | Service Provider |
|------|--|
| 100 | District of service |
| 110 | County office of education |
| 120 | SELPA |
| 130 | Another district, county, or SELPA |
| 200 | WorkAbility |
| 210 | Transition Partnership Program (TPP) |
| 220 | Regional Center |
| 230 | Alcohol and drug prevention programs |
| 240 | Child development funded program |
| 250 | Head Start |
| 300 | CDE of Mental Health (DMH) |
| 310 | California Children's Services (CCS) |
| 320 | CDE of Social Services (DSS) |
| 330 | CDE of Rehabilitation (DOR) |
| 340 | Employment Development CDE (EDD) |
| 400 | Nonpublic agency (NPA) under contract with SELPA or district |
| 410 | Nonpublic school (NPS) under contract with SELPA or district |
| 500 | Other public program |
| 600 | Other private program |



LOCATION

These codes are used to indicate the student's services' location.

| Code | Service Location |
|------|--|
| 210 | Home – instruction based on IEP Team Determination |
| 220 | Hospital |
| 310 | Head Start program |
| 320 | Child development or child care facility |
| 330 | Public preschool |
| 340 | Private preschool |
| 350 | Extended day care |
| 360 | Residential facility |
| 510 | Regular classroom/public day school |
| 520 | Separate classroom in public integrated facility |
| 530 | State Special School |
| 540 | Separate school or Special Education Center or facility |
| 550 | Public residential school |
| 560 | Other public school or facility |
| 570 | Charter school (operated by an LEA/district) |
| 580 | Charter school (operated as an LEA/district) |
| 610 | Continuation school |
| 620 | Alternative work education center/work study facility |
| 630 | Juvenile court school |
| 640 | Community school |
| 650 | Correctional institution or facility |
| 710 | Community college |
| 720 | Adult education facility |
| 810 | Nonpublic day school |
| 820 | Nonpublic residential school – in California |
| 830 | Nonpublic residential school – outside California |
| 840 | Private day school (not certified by Special Education Division) |
| 850 | Private residential school (not certified by Special Education Division) |
| 860 | Parochial school |
| 890 | Service provider location |
| 900 | Any other location or setting |

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SECTION 6

PARENTAL RIGHTS AND
PROCEDURAL SAFEGUARDS



PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

| | | |
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| 6.1 | INTRODUCTION | 1 |
| 6.2 | OVERVIEW | 1 |
| 6.3 | PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS | 1 |
| 6.4 | TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY | 2 |
| 6.5 | PARENT REVOCATION OF CONSENT | 2 |
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PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

6.1 INTRODUCTION

Students with disabilities and their parents are afforded rights and procedural safeguards to ensure that all individuals with disabilities are provided a free and appropriate public education (FAPE).

Parents can obtain assistance in understanding their rights and procedural safeguards from the Special Education Director of their child's district of attendance, the SELPA Administrator, or the California Department of Education (CDE).

The Notice of Procedural Safeguards

Parents shall be given a copy of their rights and procedural safeguards only one time a school year, except that a copy also shall be given to the parents:

- (A) Upon initial referral or parental request for assessment.
 - (B) Upon receipt of the first state complaint in a school year.
 - (C) Upon receipt of the first due process hearing request in a school year.
 - (D) When a decision is made to make a removal that constitutes a change of placement of an individual with exceptional needs because of a violation of a code of pupil conduct.
 - (E) Upon request by a parent.
- (EC 56301(d)(2))

6.2 OVERVIEW

Local Education Agencies (LEA) have an obligation to seek out children with disabilities between birth and age 21. A child with a disability is one who has been identified by an Individualized Education Program (IEP) Team as having one or more of the thirteen disabling conditions that are defined in federal regulation. Also, the child is one, who because of the disability, needs special education and related services to benefit from education and meets state eligibility criteria.

Children, with disabilities, are offered programs that provide for maximum interaction with children with typically developing peers in a manner that is appropriate to the needs of both.

6.3 PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

The "Parental Rights and Procedural Safeguards for Special Education document is at the end of this section (Appendix A).

6.4 TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY

When a student with a disability reaches age 18 (unless determined to be incompetent by appropriate authorities), the school district must provide any required notices to both the individual with disabilities and the parents. All rights transfer to the child at the age of majority.

The school district must notify the individual and the parents of this transfer at least one year prior to the student's 18th birthday.

If a student with a disability has reached age 18 and has not been determined to be incompetent, but is determined not to have the ability to provide informed consent, the school district shall follow the state procedures for appointing an appropriate individual to represent the educational interests of the child.

All rights of youth incarcerated in adult or juvenile federal, state, or local correctional institutions transfer to the child. (*EC 56000-56524; CFR 300.500-300.589*)

6.5 PARENT REVOCATION OF CONSENT

Effective December 31, 2008, parents are now able to revoke consent for special education and related services and school districts will not be able to challenge the decision through mediation or due process. Also clarified as part of these regulatory changes: (1) If parents revoke consent for special education, the school district is not required to amend the child's educational records to delete all references to the child's prior receipt of special education services (34 C.F.R. 300.9(c)(3)); and (2) If parents revoke consent for special education, the school district will not be considered to be in violation of its obligation to provide FAPE to the child during the period of time when the parents refuse to consent to services (34 C.F.R. 300.300(b)(4)(iii)), and is not required to convene an IEP team meeting or develop an IEP for the child for further provision of services (34 C.F.R. 300.300(b)(4)(iv)).

Department of Education officials emphasize that when parents revoke consent for special education and related services, they must do so in writing, and although school officials cannot delay in ceasing to provide special education and related services to the child, they must provide the parent with prior written notice (and a copy of procedural safeguards) prior to stopping services.

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| NOTE: Please refer to Section 14.4 B for Sample Letter of Revocation of Consent |
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Southwest SELPA
320 Knob Hill Avenue
Redondo Beach, CA 90277
Phone (310) 944-3217 Fax (310) 944-3540

Southwest Special Education Local Plan Area

Parents' Rights and Procedural Safeguards
[Please keep this document for future reference.]

Dear Parent(s)/Guardian(s)/Pupil:

This notice is provided to you because your child is being considered for possible placement or is currently enrolled in a special education program. This notice is also provided for children who are entitled to these rights at age 18. If your child is being referred for special education and all options of the general education program have been considered, and where appropriate utilized, for your child, you have the right to initiate a referral for special education.

In California, special education is provided to children with disabilities between birth and twenty-one years of age. Federal and state laws protect you and your child throughout the procedures for evaluation and identification of special education placement and services. Parents of children with disabilities have the right to participate in the individual education program process and be informed of the availability of a free appropriate public education and of all available alternative programs, including public and nonpublic programs.

You have the right to receive this notice in your primary/native language or other mode of communication (i.e., sign language or Braille), unless it is clearly not feasible to do so. These rights may also be translated orally to you if your primary/native language is not a written language. This notice will be given to you only one time a year, or upon: (1) your request; (2) the initial referral of your child for a special education evaluation; (3) reevaluation of your child; (4) removal of your child for violating a school code of conduct that constitutes a change in placement; (5) filing of a state complaint; and (6) receipt of a request for a due process hearing. If available, a copy of these procedural safeguards may also be accessible on your district's website and may be sent to you, upon your request, by electronic mail. Please check with your local school district to determine if this option is available.

The definitions below will help you understand the statement of rights. Should you need further information regarding the contents or use of this guide, you may contact your school district of residence Special Education Director, whose telephone number is on the last page of this document.

Definitions

Children with Disabilities: The Individuals with Disabilities Education Act ("IDEA") defines "children with disabilities" as including children with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities, and who by reason thereof, need special education and related services.

Consent: Consent means that: (1) parents have been given all information, in their native language or other mode of communication, that is relevant to any activity for which their consent is sought; (2) parents understand and agree in writing to that activity, and the consent form they sign contains a description of the activity and a list of records that will be released and to whom the records will be released in order to initiate or implement the activity; and (3) parents understand that their consent is



voluntary and may be revoked at any time; however, their withdrawal of consent does not negate an action that has already occurred.

Evaluation: An assessment of your child using various tests and measures per Education Code section 56320-56339 and 20 U.S.C. section 1414(a), (b) and (c) to determine whether your child has a disability and the nature and extent of special and related services needed by your child for his/her educational benefit. The assessment tools are individually selected for your child and are administered by competent professionals employed by the local education agency. Testing and evaluation materials and procedures will be selected and administered so as not to be racially or culturally discriminatory. The materials or procedures will be provided and administered in your child's native language or mode of communication, unless it clearly is not feasible to do so. No single procedure shall be the sole criterion for determining an appropriate educational program for a child.

Free Appropriate Public Education ("FAPE"): An education that: (1) is provided at public expense, under public supervision and direction, and without charge to you; (2) meets the standards of the California Department of Education; and (3) is provided in conformity with a written individualized education program developed for your child to confer an educational benefit and to be implemented in a preschool, elementary or secondary school program.

Individual Education Program ("IEP"): A written document developed by your child's IEP team that includes at least all of the following: (1) present levels of academic achievement and functional performance; (2) measurable annual goals; (3) a statement of the special educational and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child; (4) an explanation of the extent to which the child will not participate with non-disabled children in the general education programs; (5) the projected date for initiation and the anticipated duration, frequency and location of the programs and services included in the IEP; and (6) appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the child is achieving his or her goals.

Least Restrictive Environment ("LRE"): To the maximum extent appropriate, children with disabilities will be educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the general education program will occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Local Educational Agency ("LEA"): This term includes a school district, County Office of Education ("COE"), a Special Education Local Plan Area ("SELPA"), or a charter school participating as a member of a SELPA.

Notification of Majority Rights: Your child has the right to receive all information about his/her educational program and to make all decisions when he/she reaches the age of eighteen unless determined incompetent by state law and procedures. Non-conserved adults are presumed under the laws of the State of California to be competent.

Parent: The definition of parent includes: (1) person having legal custody of a child; (2) an adult student for whom no guardian or conservator has been appointed; (3) a person acting in place of a natural or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives; (4) a parent surrogate; and (5) a foster parent, if the authority of a natural parent to make education decisions on the child's behalf has been specifically limited by court order.

Parental Consent

The LEA must get parental consent, as described above, before assessing and/or providing special education and related services to your child. The LEA must make reasonable efforts to obtain a parent's informed consent before an initial assessment or reassessment of a child. If you refuse to consent to an initial assessment or a reassessment, the LEA may, but is not required to, use due process procedures to

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obtain your consent for the assessment. If you refuse to consent to the *initial IEP* placement and services, the LEA may not use the due process procedures described below to challenge your refusal to consent. However, when the LEA requests consent to the initial placement and services, and you do not provide it, the LEA will not be considered to be in violation of the requirement to make available a FAPE to your child. The LEA will also not be required to convene an IEP team meeting or develop an IEP when such consent is not provided after the LEA's request.

If you refuse all services in your child's IEP after having consented to those services in the past, the LEA must file a request for due process. You may consent in writing to the receipt of some components of your child's IEP, and those components of the IEP must be implemented by the LEA. If the LEA determines that the remaining component(s) of your child's IEP to which you do not consent is/are necessary to provide a FAPE to the child, the LEA must initiate a due process hearing.

Finally, your informed consent need not be obtained in the case of a reassessment of your child, if the LEA can demonstrate through a due process hearing that it has taken reasonable measures to obtain your consent and you have failed to respond.

Revocation of Consent

If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the school district or charter school

- May not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services;
- May not use the mediation procedures, the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
- Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
- Is not required to convene an IEP Team meeting or develop an IEP for the child for further provision of special education and related services.

If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the school district or charter school is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent. This provision applies when a parent refuses all special education services. If a parent disagrees with some services but not all, the issues need to be resolved through the Due Process procedure.

Educational Records

All parents or guardians of children enrolled in California public schools have the right to inspect records under the Family Educational Rights and Privacy Act ("FERPA"), which has been implemented in the California Education Code.

Educational records are those records that are directly related to your child and maintained by a school district, agency, or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained. Both federal and state laws further define an educational record as any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school LEA, or required to be maintained by an employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm, computer or by other means. Educational records do not include informal personal notes prepared and kept by a school employee for his/her own use or the use of a substitute. If records contain information about more than one child, you have access only to that portion of the record pertaining to your child.

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Personally identifiable information may include: (1) the name of the child, the child's parent or other family member; (2) the address of the child; (3) a personal identifier such as the child's social security number, student number, or court file number; (4) a list of personal characteristics or other information that would make it possible to identify the child with a reasonable certainty.

Additionally, parents of a child with disabilities, including non-custodial parents whose educational rights have not been limited, are presumed to have the right to: (1) review all educational records regarding the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child; and (2) receive an explanation and interpretation of the records. These rights transfer to a non-conserved pupil who is eighteen years old or attending an institution of post-secondary education.

The custodian of records at each school site is the principal of the school. The custodian of records for each school district located in the Southwest SELPA is listed on the last page of this document. Educational records may be kept at the school site or the district office, but a written request for records at either site will be treated as a request for records from all sites. The custodian of records will provide you with a list of the types and locations of pupil records (if requested). Three years after a student exits a program, the special education records will be destroyed.

The custodian of the records will limit access to your child's educational records to those persons authorized to review the educational record, including you, your child who is at least sixteen years old, individuals who have been authorized by you to inspect the records, school employees who have a legitimate educational interest in the records, post secondary institutions designated by your child, and employees of federal, state, and local education agencies. In all other instances, access will be denied unless you have provided written consent to release the records or the records are released pursuant to a court order or other applicable law. The LEA must keep a log indicating the time, name and purpose for access of those individuals who are not employed by the school district.

Parent consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of the IDEA, except under the following circumstances: (1) before identifiable information is released to officials of participating agencies providing or paying for transition services; and (2) if the child is in, or is going to go to, a private school that is not located in the same school district in which parents reside, parent consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the private school is located and officials in the school district in which parents reside.

A review and/or copies of educational records will be provided to you within, five (5) business days of a request. A fee for copies, but not the cost to search and retrieve, is determined by LEA policy and will be charged, unless charging the fee would effectively deny you access to your child's educational records. Once a complete copy of the records has been provided, a fee will be charged for additional copies of the same records.

Upon receiving notice that the records are no longer necessary to the LEA, you may request destruction of the records, which will take place either by physical destruction or by removing personal identifiers from the records so that the information is no longer personally identifiable. However, the LEA is obligated to keep a permanent record for each child, which includes: (1) the child's name, address, and phone number; and (2) the child's grades, attendance records, classes attended, grade level completed, and year completed.

If you believe that information in the education records collected, maintained or used by the LEA is inaccurate, misleading or violates the privacy or other rights of the child, you may request in writing that the LEA amend the information. If the LEA agrees with your request, the record will be amended and you will be informed.

Should the LEA refuse to make the amendment requested within 30 days, the LEA will notify you of the right to a hearing to determine whether the challenged information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child. If you request a hearing, the LEA will provide a hearing, within a reasonable time, which meets the following requirements: (1) the LEA must provide you



with notice of the date, time, and place, reasonably in advance of the hearing; (2) the hearing may be conducted by any individual, including an official of the LEA, who does not have a direct interest in the outcome of the hearing; (3) the LEA shall give you a full and fair opportunity to present evidence relevant to the issues; (4) the LEA shall make its decision in writing within a reasonable period of time after the hearing; and (5) the decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision. You may, at your own expense, be assisted or represented by one or more individuals of your own choice, including an attorney.

If it is decided by the governing board after the hearing that the record will not be amended, you have a right to provide what you believe is a corrective written statement, which will be permanently attached to the contested record. This statement will be attached if the contested record is disclosed.

Independent Educational Evaluation

An independent educational evaluation ("IEE") is an assessment conducted by a qualified examiner who is not employed by the LEA providing an education to your child, but satisfies the same requirements of the California Department of Education ("CDE") and the LEA. If you disagree with the results of a recent assessment conducted by LEA, and make that disagreement known to the LEA, you have the right to request and possibly obtain an IEE for your child at public expense from a qualified person. Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you. Your LEA has information available for you about where such an IEE may be obtained and what the LEA's criteria is for determining qualification.

If you request an IEE at public expense, the LEA must either: (1) file a complaint for due process against you to prove that its assessment is appropriate; or (2) ensure that the IEE is provided to you at public expense. If the LEA proves at a due process hearing that its assessment is appropriate, you still have the right to an IEE, but not at public expense.

If you obtain an assessment at private expense and provide a copy of it to the LEA, the results of the assessment will be considered by the IEP team with respect to the provision of a FAPE to your child. The privately funded assessment may also be introduced at a due process hearing regarding your child.

If the LEA observed your child in conducting its assessment, or if the LEA's assessment procedures allow in-class observations of students, an individual conducting an IEE must also be allowed to observe your child in the classroom, or observe an educational setting proposed by the IEP team.

If you propose a publicly-financed placement of your child in a nonpublic school, the LEA will have an opportunity to observe the proposed placement and the pupil in the proposed placement, if the pupil has already been unilaterally placed in the non-public school by the parent or guardian.

Complaint Process

You have the right to present and resolve any complaint you have regarding your child's education. If you have any concerns relating to your child's educational program, the Southwest SELPA encourages you to bring your concerns to the attention of the teacher, school administrator, or your child's IEP team. You also have the right to attempt to resolve your dispute by accessing less adversarial options through the SELPA's Alternative Dispute Resolution (ADR) program. If the LEA is not able to resolve your concerns through informal means, you may file a compliance complaint with either the LEA, or the CDE.

If your concern is related to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, the provision of a FAPE to the child, or a dispute over the availability of an appropriate program for your child, you may file a due process hearing complaint (described below). The LEA also has the right to file a due process hearing complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, the provision of a FAPE to your child, or a dispute over the availability of an appropriate program for your child.

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All compliance complaints which allege a violation of the law under the IDEA or California special education law, the complaint must: (1) be in writing; (2) contain a statement that the LEA has violated a law or regulation under the IDEA or California Education Code counterparts; (3) contain the facts which support the allegation; (4) contain a signature and contact information of the complainant; and (5) if alleging a violation against a single child, must contain: (a) the name and address of the child (or available contact information for a homeless child); (b) the name of the school the child is attending; (c) a description of the nature of the problem and facts relating to the problem; and (d) a proposed resolution to the extent known.

District/LEA Level Compliance Complaint: The Southwest SELPA encourages you to file any complaint regarding special education issues directly with your LEA in order for the LEA to quickly address your concerns in an informal and efficient manner. The LEA has established confidential procedures for the filing of these complaints and will meet with you to investigate your complaint in a timely manner and attempt to resolve any concerns. The Compliance Officer will assist you in resolving any complaint of discrimination against the district, its employees or contractors, and students. The Compliance Officer is also able to assist you in preparing your complaint in writing and to provide the information required by law. The Compliance Officer will refer you to other agencies responsible for the investigation and resolution of complaints when appropriate.

State Level Compliance Complaint: Any individual or organization may file a compliance complaint alleging a violation of any IDEA or state law requirement by the LEA, CDE, or any other public agency. The Compliance Officer is also able to assist you in preparing your complaint in writing and to provide the information required by law. The Compliance Officer will refer you to other agencies responsible for the investigation and resolution of complaints when appropriate. Complaints should be filed with the CDE Compliance Unit: **California Department of Education, Special Education Division, Procedural Safeguards Referral Service, 1430 N Street, Suite 2401, Sacramento, CA 95814. Phone (800) 926-0648; FAX (916) 327-3704.**

Compliance complaints filed with the CDE must be filed within one year from the date you knew or had reason to know of the facts that were the basis for the complaint.

Within sixty (60) days after your complaint is filed, the CDE will: (1) carry out an independent on-site investigation, if necessary; (2) give you the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) provide the LEA with the opportunity to respond to the complaint, including a proposal to resolve the complaint; (4) provide an opportunity for you and the LEA to agree voluntarily to engage in mediation; (5) review all relevant information and make an independent determination as to whether the LEA is violating a requirement of the IDEA and/or related State law; and (6) issue a written decision to you and the LEA that addresses each allegation in the complaint and contains findings of fact and conclusions, and the reasons for the final decision.

Prior Written Notice

An LEA is responsible for informing you, in writing, whenever it proposes or refuses to initiate a change in the identification, assessment, or educational placement of your child. The LEA must provide written notice to parents of this proposal or refusal within a reasonable time. This notice, if not previously provided to the parent, will also be provided upon the LEA's receipt of a parent's request for a due process hearing. The written notice will include:

- A description of the actions proposed or refused by the LEA with an explanation of why the agency proposed or refused to take the action and a description of other actions considered and why those options were rejected.
- A description of each assessment procedure, test, record, or report the LEA used as a basis for the proposal or refusal.

- A description of other options considered by the IEP team and the reason why those options were rejected.
- A description of any other factors, which are relevant to the LEA's proposal or refusal.
- Notice that parents can obtain copies or assistance in understanding their rights and procedural safeguards from the Special Education Director of their child's district of residence, the SELPA Director, or the CDE in Sacramento.

Alternative Dispute Resolution Mediation Process

The Southwest SELPA is committed to assisting families and Districts work out their differences in a timely and efficient manner. The SELPA Alternative Dispute Resolution (ADR) Program is designed to assist families and districts work out their disagreements prior to filing for due process. ADR offerings prior to filing for state level due process usually include facilitated IEP team meetings and conducting informal mediations. All local ADR services are voluntary for participants and can be initiated at anytime by either the parent or District staff. Options accessed through the ADR program are conducted in a non-adversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a FAPE to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services often do not attend or otherwise participate in these conferences. This does not prevent either party from consulting an attorney either prior to or following any ADR conference nor does this bar a parent of the child in question from participating if the parent is an attorney.

If a family requests an informal mediation conference through California Department of Education (CDE), the mediation conference will be scheduled within 15 days and completed within 30 days of the CDE's receipt of your request for mediation, unless both parties agree to an extension. The mediation will be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

If you and the LEA resolve a dispute through the informal mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and that: (1) states that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and (2) is signed by both you and a representative who has the authority to bind the LEA.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States. Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal or State court. If interested in mediation or any ADR service please contact (310) 546-1834 ext. 229 or sw_adr@lacoed.edu.

Due Process Hearing

A due process hearing is a formal proceeding presided over by an administrative law judge, which is similar to a court action. The hearing can be initiated by you or the LEA when there is a disagreement over a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, the provision of a FAPE to your child, or a dispute over the availability of an appropriate program for your child.

Requests should be sent to: **Office of Administrative Hearings ("OAH"), at the following address: Office of Administrative Hearings, Attn: Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231. Phone (916) 263-0880; FAX (916) 263-0890.**

The request for a due process hearing must be filed within *two* years from the date you knew or had reason to know of the facts that were the basis for the hearing request. This timeline does not apply to you if you were prevented from requesting a due process hearing earlier because the LEA: (1) misrepresented



that it had resolved the problem which is the basis of your request; or (2) withheld information from you relating to the information contained in this notice.

Your due process hearing complaint must include the following information: (1) your child's name; (2) your child's address (or, in the case of a homeless child, the available contact information); (3) the name of the school your child attends; (4) a description of the problem relating to the proposed initiation or change, including specific facts about the problem; and (5) proposed resolution to the problem to the extent it is known to you. You must provide the LEA with a copy of your request for due process. You (or the LEA) may not have a due process hearing until a due process hearing complaint that contains all of the information outlined above is filed.

Within five days, OAH must decide if the due process complaint meets the requirements listed above and they will notify you and the LEA in writing if it is insufficient. If OAH determines that a due process complaint is insufficient, the party will have the opportunity to file a new complaint that meets the requirements listed above.

If you request a due process hearing, within 15 days of receiving your request for due process, the LEA must convene a meeting with you, the relevant member(s) of your child's IEP team who have specific knowledge of the facts identified in the due process hearing request, and a LEA representative who has decision-making authority, to discuss a resolution to the issues raised. The meeting will not include the LEA's attorney, unless you are accompanied by an attorney.

Except where you and the LEA have both agreed, in writing, to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until you agree to participate in a meeting.

If an agreement is reached at the resolution session, the agreement must be memorialized in writing and signed by both you and the LEA representative. After signing, both you and the LEA have 3 business days to void the agreement. If the LEA has not resolved the due process complaint to your satisfaction within 30 days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur, and the applicable timeline for issuing a final decision begins.

You and the LEA may agree, at any time prior to the commencement of the due process hearing to participate in a mediation of the dispute. An impartial mediator will be appointed by OAH at no cost to either party. Mediation extends OAH's timeline to render its decision; however, mediation is not intended to deny or delay your right to a hearing, or any other rights.

If the issues which gave rise to the request for due process are not resolved by the resolution session or mediation, OAH must hold a hearing, reach a final decision on the issues in the case, and send a copy of the decision to the parties within 45 days of the expiration of the resolution period. The hearing must be held at a time and place that is reasonably convenient to the parties.

Any party to a due process hearing has the right to: (1) a fair and impartial administrative hearing before a person knowledgeable in laws governing special education and administrative hearings; (2) be represented by an attorney or an advocate with knowledge and training related to the problems of children and youth with disabilities; (3) present evidence, written arguments, and oral arguments; (4) confront, cross-examine, and require witnesses to be present; (5) obtain a written or at your option, electronic verbatim record of the hearing; (6) obtain written or at your option, electronic findings of fact and decisions, within 45 days after the expiration of the resolution session time period; (7) receive notice from the other party, at least ten days prior to the hearing, that it intends to be represented by an attorney; (8) be informed by the other party, at least ten days prior to the hearing, of their issues and their proposed resolutions; (9) receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony at least five business days before the hearing; (10) have your child present at the hearing; (11) have the hearing open or closed to the public; (12) have an interpreter provided; (13) request an extension of the hearing timeline for good



cause; and (14) request that your child's school district, the Southwest SELPA or OAH provide you with a list of individuals providing legal services or advocacy for children with disabilities.

The hearing decision is final and binding on both parties. Either party may appeal the decision by filing an appeal in the appropriate court. In a civil action, the records and transcription of the administrative proceedings will be filed with the court. The court may hear additional evidence at the request of either party and must base its decision on the preponderance of the evidence. This appeal must be made within ninety (90) days after the date of the decision of the Administrative Law Judge.

Once a request for due process is received by the LEA, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, the child must remain in his or her current educational placement, unless the parent and the LEA agree otherwise.

If your request for due process involves an application for initial admission to public school, your child, with your consent, must be placed in the general public school program until the completion of all such proceedings.

If your request for due process involves an application for initial services for a child who received services pursuant to an individual family services plan ("IFSP"), and has turned three, the LEA is not required to provide the IFSP services that your child had been receiving. If your child is found eligible for special education services from the LEA, and you consent for your child to receive special education services for the first time, then, pending the outcome of the due process proceedings, the LEA must provide those special education and related services that are not in dispute (those which you and the LEA both agree upon).

If your child has been placed in an interim alternative educational setting ("IAES"), he or she will remain in the IAES for a maximum of 45 school days pending the due process hearing, or until the expiration of the time period for the IAES, whichever occurs first.

Attorneys' Fees

A court, in its discretion, may order that a LEA pay reasonable attorneys' fees to the parent of a child with disabilities if the parent prevails at a due process hearing. Additionally, the LEA may be awarded attorneys' fees against the attorney of a parent, or against a parent, who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation. The LEA may also be entitled to attorneys' fees against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purposes, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

A court may reduce the amount of attorneys' fee if: (1) the parent has unreasonably delayed the proceedings (unless the LEA also delayed the proceedings or violated due process procedures); (2) the fees unreasonably exceed the prevailing hourly rate in the community; (3) the time spent and legal services were excessive; (4) or the parent's attorney did not provide the LEA with an appropriate due process complaint.

A parent may not obtain additional attorneys' fees or costs after the rejection or failure to respond within 10 days to an offer of settlement that is made by the LEA, at any time more than 10 days before the hearing or court action if the hearing officer or court finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. Despite these restrictions, an award of attorneys' fees and related costs may be made to a parent if you prevail and the court determines you were substantially justified in rejecting the settlement offer.

Attorneys' fees may not be awarded to an attorney for attendance at an IEP team meeting unless the meeting has been convened as a result of an administrative proceeding, or a judicial action. A resolution meeting is not considered a meeting convened as a result of an administrative hearing or court action, and

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also is not considered an administrative hearing or court action for purposes of the attorneys' fees provisions.

Discipline Procedures

Before a child with disabilities may be suspended from school for a period in excess of 10 days, or 10 cumulative days when such suspensions constitute a change in placement, the LEA must hold an IEP team meeting to determine whether the behavior subject to discipline was a manifestation of your child's disability. The IEP team will determine whether the conduct in question was: (1) caused by, or had a direct and substantial relationship to your child's disability; or (2) the direct result of the LEA's failure to implement the child's IEP. Under special circumstances, your child may be removed from his/her placement to an IAES for a period not to exceed 45 school days. School officials are not prohibited by special education laws from reporting a crime committed by your child to appropriate authorities.

Parents have the right to appeal a decision to suspend or expel special education students. When an appeal has been requested by either the parent or the LEA relating to the disciplinary placement of a child or the results of the manifestation determination meeting, the State shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing. Your child is entitled to a stay put placement during appeals, however, if your child is placed in an IAES for 45 school days, placement will remain in that setting pending the decision by the hearing officer or until the expiration of the time period of the suspension, whichever occurs first.

If an evaluation of the child is requested when disciplinary action is pending, the evaluation shall be conducted in an expedited manner. Pending such an evaluation, the child shall remain in an educational setting determined by school authorities.

A child who has not previously been determined to be eligible for special education and related services may assert any of the protections provided under the IDEA if the LEA had knowledge that the child was a child with a disability before the occurrence of the behavior that caused disciplinary action. Knowledge shall be deemed if: (1) the parent expressed in writing to supervisory or administrative personnel of the school district, or the teacher of the child, that the child was in need of special education and related services; (2) the parent had requested an evaluation of the child; or (3) school personnel had expressed to the Special Education Director of the LEA or to other supervisory personnel specific concerns about a pattern of behavior demonstrated by the child. The LEA is not deemed to have knowledge if the parent has not allowed an evaluation of the child or has refused special education services or the child has been evaluated and it was determined that the child was not eligible for services. If the LEA did not have knowledge of the disability, the child will not receive the due process protections of the IDEA.

Interim Alternative Educational Setting (IAES)

An IAES is an educational placement or other setting or suspension that may be ordered by school personnel for a period not to exceed 10 school days (to the extent the alternative would be applied to children without disabilities). A decision to place a child in an IAES may be made by the IEP team when disciplinary action is contemplated by a LEA.

Under special circumstances, the IAES may be ordered for a period not to exceed 45 school days when a child has committed one of the following offenses at school, on school premises or at a school function under the jurisdiction of a State or LEA: (1) carried or possesses a weapon; (2) knowingly possessed or used illegal drugs, or sold or solicited the sale of controlled substances; (3) inflicted serious bodily injury upon another person. If the LEA has not already done so, after placing the child in a forty-five school day IAES, the LEA shall conduct a functional behavioral assessment and implement a behavioral intervention plan (if one has not already been implemented). If such a plan is already in place, the IEP team shall consider its modification. The IAES shall be affirmed by the IEP team if it will enable the child to continue to participate in the general curriculum and to receive those services and modifications,

including those described in the child's current IEP, to meet the goals set out in the IEP and provide the modifications to address the offending behavior.

Under federal law, a hearing officer may return a child with a disability to the placement from which the child was removed or order a change of placement for a child with a disability to an appropriate IAES for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

At the time the decision is made to place a child in the IAES, the parents of the child have the right to be notified of the decision and provided written notice of all procedural safeguards under the disciplinary section of the IDEA. If a placement in an IAES is in excess of 10 school days, the IEP team must determine the appropriate setting and necessary services that will allow your child to continue to receive an educational benefit.

Unilateral Placement in a Private School by Parent(s)

The reimbursement to a parent for placement of a child in a private school or agency may be ordered by a hearing officer or court when it is determined that the LEA did not provide a FAPE to the child in a timely manner prior to the enrollment and that the private placement is appropriate. Reimbursement may be reduced if the parent failed to inform the LEA that they were rejecting the proposed placement and of their intent to place their child in a private school at public expense at the most recent IEP, or at least 10 business days prior to the removal of the child from public school. Reimbursement may also be reduced if, prior to the removal of the child from public school, the LEA informed the parent of its intent to evaluate the child, and parent refused to permit or did not make the child available for the evaluation.

Reimbursement cannot be reduced if the LEA prevented the parent from giving notice; the parent had not received notice of the "written notice" requirement; or if compliance with the notice requirement would likely result in the physical harm to the child. The cost of reimbursement may or may not be reduced if the parent is not literate or cannot write in English, or compliance with the notice requirement would likely result in serious emotional harm to the child.

Surrogate Parent

Within 30 days of the local educational agency's determination that a child is in need of a surrogate parent, the LEA will appoint a surrogate parent for a child if:

1. The child has been made a dependent or ward of the court, the court has specifically limited the right of the parent or guardian to make educational decisions for the child, **and** the child has no responsible parent or guardian to represent him or her; or
2. The child is not a ward or dependent of the court **and** no parent or guardian can be located, **or** there is no caretaker of the child **or** the child is an unaccompanied homeless youth.

In determining who will act as a surrogate for a child, the LEA will consider a relative caretaker, foster parent, or court appointed special advocate, if any of the individuals exist, otherwise it will appoint a person of its choice.

The surrogate parent will be an individual with knowledge and skills to adequately represent the child. The surrogate must meet the child at least once and, unless such a person is unavailable, should be culturally sensitive to the child. The surrogate parent shall represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in all other matters relating to the provision of a FAPE to the child, including the provision of written consent to the IEP for non-emergency medical services, mental health treatment services and occupational or physical therapy services.

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Persons with a conflict of interest in representing the child shall not be appointed as a surrogate parent. Conflicts exist if the surrogate parent is an employee of the LEA involved in the education or care of the child, or a foster care provider who derives his/her primary source of income from the care of this child or other children. When no such conflict exists, foster care providers, retired teachers, social workers, and probation officers may all serve as surrogates. In the case of an unaccompanied homeless youth, staff from emergency and transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogates without regard to the conflicts described above, only until such time as another surrogate parent who meets the requirements described above can be found.

Alternatively, the surrogate parent can be appointed by the judge overseeing the child's care (as opposed to the LEA) provided that the surrogate parent meets the requirements described above.

Parental Consent

The State Special Schools provide services to students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three facilities: the California Schools for the Deaf in Fremont and Riverside and at the California School for the Blind in Fremont. Residential and day school programs are offered to students from infancy to age 21 at both State Schools for the Deaf and from ages five through 21 at the California School for the Blind. The State Special Schools also offer assessment services and technical assistance. For more information about the State Special Schools, please visit the California Department of Education Web site at <http://www.cde.ca.gov/sp/ss/>, ask for more information from the members of your child's IEP team or contact the SELPA Office.

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For Charter Schools in the Southwest SELPA, contact the SELPA Office.



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SECTION 7

EARLY CHILDHOOD
EDUCATION



EARLY CHILDHOOD EDUCATION

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EARLY CHILDHOOD EDUCATION INFANT, TODDLER, AND PRESCHOOL

7.1 INTRODUCTION

The Southwest SELPA and Family Resource Center (FRC), LEAs, the Harbor Regional Center (HRC), and the Westside Regional Center (WRC) will actively and systematically seek out all children with disabilities from birth to age five to refer, assess and determine eligibility for special education services.

With the enactment of the California Early Intervention Services Act of 1993, LEAs became responsible for serving all infants and toddlers who have a **solely low-incidence disability** means one disability or a combination (vision, hearing, orthopedic impairment) that is the primary disability and has a significant impact on the child's learning and development. The determination of solely low-incidence disability is made by the IFSP team of the LEA. The infant or toddler who has a solely low-incidence disability is not eligible for services from a regional center.

To be considered to have a solely low-incidence disability, a child must meet the appropriate eligibility criteria under 5 CCR 3030 and 3031. All children who meet criteria under Section 3030 for one or more of the low-incidence disabilities (and for who the low-incidence disability is considered the primary disability) are considered eligible for special education and related services as well as Early Start because, under Early Start regulations (17 CCR 52022[b][2]), the existence of low-incidence condition constitutes an established risk condition.

An infant or toddler who is eligible for early intervention services through regional center and is determined to be eligible to receive early intervention services in one of the LACOE early intervention program is "dually served".

An Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP) will be developed by a multidisciplinary team to identify the child's needs and plan appropriate services for the child and the family. LEAs and the COE will work cooperatively with the HRC, WRC and other appropriate public agencies to provide all necessary services.

7.2 INFANT CHILDREN (AGES ZERO TO THREE) WITH DISABILITIES

7.2 A. Identification and Referral

Child find activities may include:

1. Assigning liaisons to local hospitals and hospitals with neonatal intensive care units;
2. Contacting local parent organizations and support groups;
3. Distributing early intervention materials to agencies and individuals providing medical, social and educational services in the community;
4. Community-wide health and developmental screening;
5. Producing and distributing public service announcements;
6. Producing pamphlets, brochures and other written communication; and,
7. Making presentations to local professional groups, philanthropic organizations and other organizations established to inform and/or to serve culturally diverse populations.

Southwest SELPA, HRC, WRC and LEAs shall coordinate local child find activities with each other and other public agencies.

Primary referral sources include, but are not limited to, hospitals, including prenatal and postnatal care facilities, physicians, parents, childcare programs, districts, public health facilities, other social services agencies and other health care providers.

Southwest SELPA, HRC and WRC shall inform primary referral sources of the following:

1. Eligibility criteria for early intervention services;
2. Types of early intervention services available through the Early Start Program;
3. Contact persons and telephone numbers for regional centers and districts; and,

4. Federal requirement that a referral shall be made to the regional center or district within two (2) working days of identification of an infant or toddler, who is in need of early intervention services.

The Southwest SELPA, HRC and WRC that receives an oral or written referral for early intervention services shall ensure that:

1. The date of the referral is documented in the infant's or toddler's record;
2. A service coordinator is assigned; and,
3. Written notice is provided and consent is requested. (17 CCR 52040, 52060)

7.2 B. Early Start Program Description

Early Start is a statewide system of early intervention services and supports infants and toddlers from birth to 36 months of age, with disabilities or at risk of having disabilities and their families. Early intervention services build upon the natural learning that occurs in the first few years of a child's life and are designed to lessen the impact of the disability on the child and on the family.

The Southwest SELPA, in collaboration with California Department of Education, Los Angeles County Office of Education (LACOE), local school districts, the Department of Developmental Disabilities and local regional centers has supported the provision of family-centered, multidisciplinary, interagency and community-based services since 1986.

The provision of these services for infants and toddlers at risk for developmental delay or with disabilities and their families are authorized, funded and regulated at both the federal and state level.

Early Start Programs shall include, as program options, home-based services and group services.

Home-based and group services will be provided through a transdisciplinary team consisting of the parent and a group of professionals from various disciplines.

The frequency of home-based services shall be weekly or bi-weekly, depending on the needs of the infant and the family.

Early education services may also be provided through both home visits and group settings with other infants. The frequency of home visits provided in conjunction with group services shall range from one to eight visits per month. The frequency of group services shall not exceed three hours a day for up to, and including, two days a week, and shall be determined on the basis of the needs of the infant and the family.

Parent involvement/education activities are provided in conjunction with home based and group services. (EC 56424-56426.2)

7.2 C. Assessment to Determine Eligibility (Dually Served)

Each infant or toddler referred for evaluation for early intervention services shall have a timely, comprehensive, multidisciplinary evaluation of his or her needs and level of functioning in order to determine eligibility.

The determination of eligibility for an infant or toddler shall be made by qualified personnel. The determination shall be made with the participation of the multidisciplinary team including the parent. Evaluation and assessment shall be based on informed clinical opinion and include:

1. A review of pertinent records related to the infant or toddler's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.
2. Information obtained from parental observation and report.
3. Evaluation by qualified personnel of the child's level of functioning in each of the following areas:
 - a. cognitive development
 - b. physical and motor development, including vision and hearing
 - c. communication development
 - d. social or emotional development
 - e. adaptive development
4. No single procedure shall be used as the sole criterion for determining a child's eligibility.

5. Standardized tests or instruments may be used as part of the evaluation. If such tests are used they shall be selected to ensure that, when administered to an infant or toddler with impaired sensory, motor or speaking skills, the tests produce results that accurately reflect the infant's or toddler's aptitude, developmental level, or any other factors the test purports to measure. The test should not factor in the infant's or toddler's impaired sensory, motor or speaking skills unless those skills are the factors the test purports to measure. The tests must be validated for the specific purpose for which they are used.
6. Procedures and materials for evaluation and assessment of infants and toddlers shall be selected and administered so as not to be racially or culturally discriminatory.
7. Infants or toddlers with solely low incidence disabilities shall be evaluated and assessed by qualified personnel of LACOE whose professional preparation, license or credential authorization are specific to the suspected disability.
8. Regional Centers, LEA's and multidisciplinary teams shall not presume or determine eligibility, including eligibility for medical services provided through the Department of Health Services, for any other state or local government program or service when conducting evaluations or assessments of an infant or toddler or their family. (17 CCR 52082; GC 95016)

7.2 D. Assessment for Service Planning

Assessment for service planning for eligible infants or toddlers shall identify all of the following:

1. The child's unique strengths and needs in each of the above areas.
2. Early intervention and other services appropriate to meet the needs.
3. The resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of an infant or toddler with a disability.

Assessment for service planning shall be based on age appropriate methods and procedures that may include any of the following:

1. A review of information related to the child's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.
2. Developmental observations by qualified personnel and the parent.
3. Other procedures used by qualified personnel to determine the presence of a developmental delay, established risk condition, or high risk for a developmental disability.
4. Standardized tests or instruments.

Assessments of family resources, priorities and concerns related to enhancing the development of the infant or toddler shall be voluntary on the part of the family. The family assessment shall:

1. Be conducted by qualified personnel trained to utilize appropriate methods and procedures;
2. Be based on information provided by the family through a personal interview;
3. Incorporate the family's description of its resources, priorities and concerns related to enhancing the development of the child; and
4. Be conducted in the language of the family's choice or other mode of communication unless it is not feasible to do so.

Evaluations and assessments for service planning shall be conducted in natural environments whenever possible. (17 CCR 52086)

7.2 E. Timeline for Completion of Evaluation and Assessment

The evaluation and assessment for eligibility for each child shall be completed within 45 days of the date that LACOE received the referral.

In the event of exceptional circumstances, which make it impossible to complete the initial evaluation and assessment for eligibility within 45

days of receiving a referral, the service coordinator shall inform the parents and document the reasons for the delay. In such cases, an interim IFSP will be developed and the services agreed upon will be implemented. The interim IFSP will include the name of the service coordinator and timelines for completing assessments. (17 CCR 52086)

7.2 F. Eligibility

The LEA determines eligibility for services for infants and toddlers with **solely low-incidence disabilities**. The Regional Center determines eligibility for infants and toddlers with disabilities that are **not solely low**. Infants and toddlers with a solely low-incidence disability such as developmental delay or established risk condition may receive services through both Early Start and Regional Center and are considered "dually served".

The term "eligible infant or toddler with a disability" means infants and toddlers from birth through two years of age, for whom a need for early intervention services is documented by means of assessment and evaluation (conducted by the Regional Center) and who meet one of the following criteria:

1. Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development.
2. Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences.
3. Infants and toddlers who have substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

If standardized, normed or criterion referenced instruments are used as part of the evaluation, a significant difference between a child's current level of functioning and the expected level of development for his or her age shall be established when the child's age equivalent score falls one third below age expectation. (17 CCR 52022; GC 95014)

NOTE: For more information refer to the *Handbook on Assessment and Evaluation in Early Childhood Special Education Programs* available at <http://www.cde.ca.gov/sp/se/lfp/documents/ecassmnt.pdf>

7.2 G. Development of the IFSP

An initial IFSP shall be developed by the HRC or WRC and/or LACOE for each eligible infant or toddler, within 45 days of the receipt, by either the regional center or LEA, of the oral or written referral.

Regional Center is the lead agency for dually served children and must develop the IFSP in compliance with state regulations.

A periodic review of the IFSP shall be conducted every six months or more frequently if service needs change, or if the parent requests such a review.

All IFSP meetings shall be conducted in settings and at times or by means that are reasonably convenient to the parent and in the language of parent's choice unless it is clearly not feasible to do so.

Meeting arrangements shall be made in collaboration with the parent. A written notice of meeting shall be provided to, the parent and other members of the multidisciplinary team in a timely manner to ensure attendance at the IFSP meeting.

Each initial IFSP meeting and each annual IFSP meeting shall include the following participants:

1. The parent of the infant or toddler;
2. The service coordinator; and,
3. At least one Service Provider; and,
4. The person(s) who conducted the evaluations or assessments.

If requested by the parent, each initial IFSP meeting and each annual IFSP meeting shall include the following participants:

1. Other family members

2. An advocate or person outside of the family.
Each IFSP meeting shall include persons who will be providing services to the infant or toddler and family as appropriate. (17 CCR 52102, 52104)

Contents of the IFSP

The IFSP must be in writing and contain:

1. A statement of the infant's or toddler's present levels of development in the following areas:
 - a. physical development,
 - b. cognitive development,
 - c. communication development,
 - d. social or emotional development, and
 - e. adaptive development.
2. A statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability.
3. A statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary.
4. A statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services.
5. A statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.
6. The projected dates for initiation of services and the anticipated duration of the services.
7. When dually eligible, the service provider will be a HRC or WRC social worker. If the eligibility is a solely low incidence, the

Southwest SELPA will be responsible for the implementation of the plan and coordination with other agencies and persons.

8. The steps to be taken to support the transition of the toddler, with a disability, to preschool or other appropriate services.

The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained before early intervention services can be provided. If the parents do not provide consent with respect to a particular early intervention service, then the only early intervention service to which consent is obtained shall be provided. (17 CCR 52106)

Review of the IFSP

The IFSP shall be evaluated once a year and the family must be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

The IFSP team will review the degree to which progress toward achieving the outcome is made and document all modifications and revisions of the outcomes or services as necessary. (17 CCR 52102)

7.2 H. Transition Requirements for Early Intervention

To ensure a smooth transition for toddlers receiving early intervention services to preschool or other appropriate services, the following requirements must be met:

1. The families of such toddlers will be included in the transition plans.
2. As early as 2 years 3 months of age, but no later than 2 years 11 months, the service coordinator will notify the LEA for the area in which the child resides and the parent that the child will shortly reach the age of eligibility for preschool services.
3. The District of Residence will hold an IEP meeting before the third birthday that ensures smooth and effective transition to a preschool program so that the child is in his/her preschool program on his/her third birthday. The IFSP transition planning meeting will be convened with the service coordinator, the family

and the LEA at least 90 days (and at the discretion of all parties, up to 9 months) before the child is eligible for the preschool services. The purpose of the meeting is to discuss the transition steps and timelines, dates for transition activities and any such services that the child may receive.

4. In the case of a child who may not be eligible for preschool services, with the approval of the family, reasonable efforts will be made to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services. (17 CCR 52112; EC 56426.9)
5. An invitation to the initial IEP team meeting shall, at the request of the parent, be sent to the service coordinator or other representatives of the early education or early intervention system to assist with the smooth transition of services.

7.3 PRESCHOOL CHILDREN (AGE THREE TO FIVE) WITH DISABILITIES

7.3 A. Identification and Referral

Preschool children age three to five with disabilities will be identified through

1. Child Find activities listed in previous sections.
2. Direct referrals from parents, preschools, physicians, members of the community, and Kindergarten teachers.
3. Children who are in transition from the Early Start Program.

Children who have been participating in the Early Start Program and are eligible to participate in preschool program will experience a smooth transition to preschool programs in the LEA or LACOE. As of the new Part C Regulations 2011, once a referral is received (from LACOE, HRC and/or WRC), the district of residence must send a letter to acknowledge the receipt of the referral within 15 days. Representatives of the LEA will participate in all transition planning conferences to ensure a smooth transition.

7.3 B. Evaluation and Assessment

Assessment procedures, as described in Section 2 are applicable to preschool children from three to five years of age.

The assessments will be conducted by a transdisciplinary team including early childhood specialists, speech and language pathologists, school psychologist and other professional professionals as appropriate.

The team will use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist in determining whether the child has a disability.

Special attention will be given to:

1. Assessing children with developmentally appropriate assessments.
2. Assessing children in natural environments.
3. Assessing children to identify participation in appropriate preschool activities.
4. Involving preschool personnel in observing and assessing children.

When standardized tests are considered invalid for children between the ages of three and five years, alternative means will be utilized (e.g. scales, instruments, observations, and interviews) shall be used as specified in the *Assessment Plan*. (EC 56441.11, 56441.6, 56426.6)

7.3 C. Eligibility

The special education eligibility criteria listed in Section 2 shall apply to preschool children, between the ages of three and five years. A preschool child qualifies as a child who needs early childhood special education services if the child meets the following criteria:

1. Is identified as having one of the following disabling conditions, or an established medical disability:
 - a. autism
 - b. deaf-blindness
 - c. deafness
 - d. hearing impairment
 - e. intellectual disability
 - f. multiple disabilities
 - g. orthopedic impairment
 - h. serious emotional disturbance
 - i. specific learning disability
 - j. speech or language impairment in one or more of voice, fluency, language and articulation
 - k. traumatic brain injury
 - l. visual impairment
 - m. established medical disability

2. Needs specifically designed instruction or services

3. Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an IEP team.

A child is not eligible for special education and related services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:

1. Unfamiliarity with the English language;
2. Temporary physical disabilities;
3. Social maladjustment; or,
4. Environmental, cultural, or economic factors.

Established medical disability is defined as a disabling medical condition or congenital syndrome that the IEP team determines has a high predictability of requiring special education and services (EC 56441.11, 56440, 56333-56339; 5 CCR 3030, 3031)

NOTE: For more information refer to the *Handbook on Assessment and Evaluation in Early Childhood Special Education Programs* available at <http://www.cde.ca.gov/sp/se/ep/documents/ecassmnt.pdf>

7.3 D. Individualized Education Program

The requirements for developing, implementing, and reviewing IEPs described in Section 5 are applicable to preschool children, age three to five.

An early education program for preschool children with disabilities shall include specially designed instruction and related services to meet the unique needs of preschool children and their families. To meet this purpose, the program focus is on the young child and his or her family and shall include both individual and small group services, which shall be available in a variety of typical age-appropriate environments for young children, including the home, and shall include opportunities for active parent involvement.

The IEPs of preschool children will describe how the disability affects the child's participation in appropriate activities. (EC 56441.2)

7.3 E. Services for Preschool Children with Disabilities

Services for preschool children with disabilities and their families shall be provided in coordination with other state and local agencies.

Services will be provided at public expense, under public supervision and without cost to the parents.

Early education services for preschool children may be provided to individuals or small groups and shall include:

1. Observing and monitoring the child's behavior and development in his or her environment.
2. Presenting activities that are developmentally appropriate for the preschool child and are specially designed, based on the child's exceptional needs, to enhance the child's development. Those activities shall be developed to

conform to the child's IEP and shall be developed so that they do not conflict with his or her medical needs.

3. Interacting and consulting with the family members, regular preschool teachers, and other service providers, as needed, to demonstrate developmentally appropriate activities necessary to implement the child's IEP in the appropriate setting, and necessary to reinforce the expansion of his or her skills in order to promote the child's educational development. These interactions and consultations may include family involvement activities.
4. Assisting parents to seek and coordinate other services in their community that may be provided to their child by various agencies.
5. Providing opportunities for young children to participate in play and exploration activities, to develop self-esteem, and to develop pre-academic skills.
6. Providing access to various developmentally appropriate equipment and specialized materials.
7. Providing related services that include parent counseling and training to help parents understand the special needs of their children and their children's development.

Appropriate settings for these services include any of the following:

1. The regular public or private nonsectarian preschool program;
2. The child development center or family day care home;
3. The child's regular environment, that may include the home;
4. A special site where preschool programs for both children with disabilities and children, who are not disabled, are located close to each other and have an opportunity to share resources and program;

5. Special education preschool program, with children, who are not disabled, attending and participating, for all or part of the program; or,
6. A public school setting which provides an age-appropriate environment, materials, and services.

Early education services shall be provided by a transdisciplinary team. Responsibilities of early education staff shall include consultation with regular preschool program providers, consultation with other specialists, assessment services, and direct services.

Services may be provided by any of the following methods:

1. Directly by a LEA or LACOE;
2. Through an interagency agreement between a local educational agency and another public agency;
3. Through a contract with another public agency;
4. Through a contract with a nonpublic, nonsectarian school or nonpublic, nonsectarian agency; or
5. Through a contract with a nonsectarian hospital. (EC 56441.3, 56441.4, 56441.8)

7.3 F. Instructional Adult-to-Child Ratio

Appropriate instructional adult-to-child ratios for the group services shall be dependent on the needs of the child.

Appropriate instructional adult-to-child ratios for group services shall be dependent on the needs of the child. However, because of the unique needs of individuals with exceptional needs between the ages of three and five years, inclusive, who require special education and related services, the number of children per instructional adult shall be less than ratios set forth in subsection (b) of Section 18204 of Title 5 of the California Code of Regulations, as it read on May 1, 1987, for young children in a regular preschool program. Group services provided to individuals with exceptional needs between the ages of three and

five years, inclusive, identified as severely disabled pursuant to Section 56030.5 shall not exceed an instructional adult-to-child ratio of one to five. (EC 56441.5)

7.3 G. Transition from Preschool to Kindergarten

As the preschool age child approaches the age to enter the elementary school environment, the child's preparation is geared toward readiness for kindergarten and later school success.

Prior to transitioning a child with disabilities from a preschool program to kindergarten, an appropriate reassessment of the child shall be conducted to determine if the child is still in need of special education and services. (EC 56445) The assessment required by EC 56445 must be provided pursuant to EC 56320, et.seq. Therefore, the reassessment of a child prior to transition to kindergarten should be handled like an initial assessment. If the student transitioning has been assessed within the past year, it is suggested the assessor complete a records review, conduct observations and consult with the teacher to make a determination whether the student remains eligible, additional assessment may be required (using different assessment tools). In either case, a report should be written and submitted to the team for consideration.

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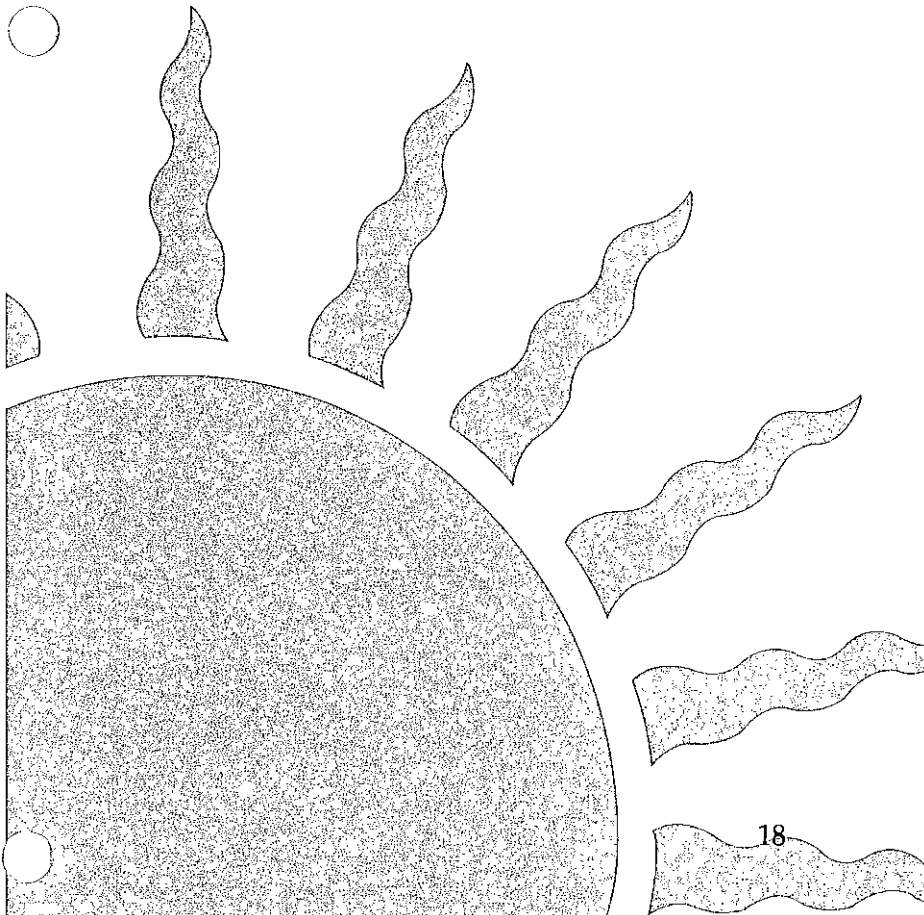
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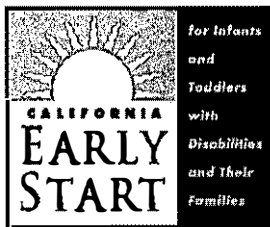
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Parents'
RIGHTS:

An
EARLY
START
GUIDE
for
FAMILIES

Revised 2009





Publishing Information

Parents' Rights: An Early Start Guide for Families was developed under the leadership of the Department of Developmental Services (DDS) in collaboration with the California Department of Education. It was produced through a contract with the WestEd Center for Prevention and Early Intervention.

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Introduction

Early Start is a statewide system of early intervention services for infants and toddlers, from birth to 36 months of age, with disabilities and their families.

Services are provided in a family-centered, multidisciplinary, interagency, and community-based system. California's Early Start system is governed by federal and state statutes and regulations.

Parents* have rights and access to procedural safeguards to assure that early intervention services are provided in a manner appropriate to their child's needs and to the concerns of the family.

This booklet is intended for parents and other interested persons and provides information on parents' rights under Early Start.

* See page 3 for definition of parent as used in this booklet.

Statute and regulation citations are provided in the margins of this booklet to enable the reader to refer to the specific language found in law. The federal statute governing Early Start is Part C of the Individuals with Disabilities Education Act (IDEA), Title 20, United States Code, Section 1431 et seq.

Federal regulations are found in Title 34, Code of Federal Regulations (CFR), Part 303.

The state law governing Early Start is the California Early Intervention Services Act, Government Code (GC), Section 95000 et seq. State regulations are found in Title 17, California Code of Regulations (CCR), Section 52000 through Section 52175.

If you have questions concerning your rights as a parent under Early Start, please contact your regional center or local education agency (LEA).

Confidentiality & Access to Records

Early Start records are an important source of information about your child. The information you provide to the regional center or LEA about your child and your family is confidential. Such information will only be shared with authorized persons involved in your child's services.

As a parent, you have the right to*

- CFR 303.402
CCR 52164
CCR 52168 ◆ 1. access records, including the right to have you or your authorized representative examine and obtain copies of records relating to your child;
 - CCR 52164 ◆ 2. request that any regional center or LEA amend or remove information relating to your child from the records;
 - CCR 52168 ◆ 3. receive, within five days of your request, copies of records relating to your child and/or explanations that you request;
 - CFR 303.401
CFR 303.460
CCR 52160
CCR 52162
CCR 52165
CCR 52169 ◆ 4. request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and
 - CFR 303.401
CFR 303.460
CCR 52160
CCR 52162
CCR 52165
CCR 52169 ◆ 5. have personally identifiable information about your child maintained in a confidential manner and have its sources, access, uses, and policies for location, storage, disclosure, retention, and destruction explained to you per the Family Education Rights and Privacy Act.
-
- CFR 303.19
CCR 52000(b)(36) ◆ * In Early Start, parent means:
 - (A) A natural or adoptive parent of a child;
 - (B) A guardian;
 - (C) A person acting in place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);
 - (D) A surrogate parent who has been assigned in accordance with CFR 303.406 and CCR 52175; or
 - (E) A foster parent, when:
 - 1. The foster parent has no interest that would conflict with the interests of the child,
 - 2. The natural parents' authority to make the decisions required of parents has been limited or relinquished under State law, and
 - 3. The foster parent is willing to make the decisions required of parents.

Evaluation & Assessment

- CFR 303.322
CFR 303.406
CCR 52082
- The determination of eligibility for Early Start in California includes a timely, comprehensive, multi-disciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services. If no parent or guardian is available or the child is a ward of the court, a knowledgeable surrogate parent who has no conflicting interest will be appointed by a regional center or LEA under Title 17, Section 52175. Procedural safeguards ensure that families are provided their rights under the law.
- CFR 303.403
GC 95020(c)
CCR 52160
CCR 52161
- As a parent, you have the right to*
1. be fully informed of your rights under Early Start;
 2. refer your child for evaluation and assessment, provide information throughout the process, make decisions, and give informed consent for your child's early intervention services;
 3. understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered;

Consent for evaluation and assessment is required only at the time of initial evaluation and assessment to receive services. (If consent is refused, the regional center or LEA may take steps to obtain an initial evaluation without parental consent.)
 4. participate in the initial evaluation and assessment process including eligibility determination;
 5. receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA;
 6. participate in a meeting to share the results of evaluations and assessments; and
 7. participate in all decisions regarding eligibility and services.
- CFR 303.401
CFR 303.404
CCR 52040(d)
- CFR 303.405
CCR 52162
- CFR 303.404
Note 2
CCR 52172(b)
- CFR 303.322
GC 95020
CCR 52082
CCR 52084
- CFR 303.321
CFR 303.322
CCR 52086
- GC 95020(b)
- CFR 303.343
GC 95014(a)
GC 95020(b)
CCR 52082(a)
CCR 52104

◆
◆ *The Individuals with Disabilities Education Act (IDEA)*
◆ *requires the following:*
◆

- ◆ CFR 303.323
◆ CCR 52084
◆ 1. Evaluation and assessment materials are administered in the language of the parents' choice or other mode of communication, unless it is clearly not feasible to do so.
- ◆ CFR 303.323
◆ CCR 52082
◆ 2. Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.
- ◆ CFR 303.322
◆ CCR 52082
◆ 3. Evaluation and assessment materials are appropriate to assess the specific areas of developmental need and are used for the specific purposes for which they were designed.
- ◆ CFR 303.322
◆ CCR 52082
◆ CCR 52084
◆ 4. Evaluations and assessments are conducted by qualified personnel.
- ◆ CFR 303.322
◆ CCR 52082
◆ 5. Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level.
- ◆ CFR 303.322
◆ CCR 52082
◆ CCR 52084
◆ CCR 52112
◆ 6. Evaluations and assessments are administered in the five developmental areas, which include physical development (motor abilities, vision, hearing, and health status); communication development; cognitive development; adaptive development; and social or emotional development. *Assessments and evaluations are ongoing while your child is in Early Start.*
- ◆ CCR 52082(f)
◆ CCR 52084(e)
◆ 7. Evaluations and assessments shall be conducted in natural environments whenever possible.
- ◆ CFR 303.322
◆ CCR 52082
◆ 8. Pertinent records relating to your child's health status and medical history are reviewed.
- ◆ CFR 303.323
◆ CCR 52082
◆ 9. No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.
- ◆ CFR 303.322
◆ CCR 52084
◆ CCR 52106
◆ 10. Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary.

Individualized Family Service Plan

CFR 303.340
CFR 303.342
GC 95-20(b)
CCR 52100
CCR 52102

An Individualized Family Service Plan (IFSP) is a written plan for providing early intervention services to an eligible child and the child's family. For an infant or toddler who has been evaluated for the first time, a meeting must take place within 45 days of the referral to the regional center or LEA to share the results of the evaluation, to determine eligibility, and, for children who are eligible, to develop the initial IFSP. Evaluation results and determination of eligibility may be shared with families prior to the first IFSP meeting.

CFR 303.342 CCR
52102

A periodic review of your child's IFSP must take place at least every six months. A review may occur more frequently if there are any changes to the IFSP or if you request a periodic review with the regional center or LEA. The IFSP must also be reviewed annually to evaluate how your child is doing and to make any needed changes to the IFSP.

◆
◆ *During the development and implementation of an IFSP,
you have the right as the parent to*

- ◆ CFR 303.343
CCR 52104 1. attend the IFSP meetings and participate in developing the IFSP;
- ◆ CFR 303.343
CCR 52104 2. invite other family members to attend IFSP meetings;
- ◆ CFR 303.343
CCR 52104 3. invite an advocate or persons other than family members
to attend and participate in the IFSP meetings;
- ◆ CFR 303.402
CCR 52102 4. have a copy of the complete IFSP;
- ◆ CFR 303.342
CFR 303.403
CCR 52102 5. have the contents of the IFSP fully explained in the language of your
choice;
- ◆ CFR 303.342
CFR 303.404
CFR 303.405
CCR 52102 6. give consent to services listed on the IFSP. *If you do not give consent
to a service, it will not be provided. You may withdraw consent after
initially accepting or receiving a service;*
- ◆ CFR 303.12
CFR 303.344
CCR 52106 7. have services provided in the natural environment or an explanation
of why that is not possible;
- ◆ CFR 303.460
CCR 52112
CCR 52169 8. exchange information about your child among other agencies;
- ◆ CFR 303.403
CCR 52161 9. be notified in writing before any agency or service provider proposes
or refuses to initiate or change your child's identification, evaluation,
assessment, placement, or the provision of appropriate early
intervention services to your child or your family.

- ◆ CFR 303.404
to 303.460
CCR 52161 ◆ *The notice must contain:*
 - ◆ the action that is proposed or refused;
 - ◆ reasons for the action; and
 - ◆ all available procedural safeguards.

◆ *The notice must be presented in the language of your choice, unless
it is clearly not feasible to do so, and may be translated so that you understand
its contents.*

Mediation Conferences, Due Process

CFR 303.422
CCR 52173
CCR 52174

In Early Start, parents have rights and protections to assure that early intervention services are provided to their children in a manner appropriate to their needs, in consideration of family concerns, and in compliance with applicable federal and State statutes and regulations. The following procedures are only for children under the age of three years.

As a parent, you have the right to

- CFR 303.419
CFR 303.420
CCR 52172
- CFR 303.510
CCR 52170
- CFR 303.511
CCR 52170
- CCR 52171(e)
- CCR 52171(b)
1. request a due process hearing any time a regional center or LEA proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s);
 2. be informed of your right to file a complaint or a request for mediation and/or due process;
 3. file a complaint if you believe there has been a violation of any federal or state statute or regulation governing early intervention services under Early Start; and
 4. request a mediation conference immediately prior to a complaint or due process hearing request or any time during the complaint/due process hearing processes to resolve a dispute related to any matter concerning a federal or state statute governing early intervention services under Early Start including eligibility and services; and
 5. file a complaint if a due process decision fails to be implemented.

Mediation Conference

CFR 303.419
CCR 52173

Mediation is a voluntary, non-binding, confidential process in which a neutral mediator facilitates settlement negotiations between you and another party. Voluntary mediation conferences are an informal way to resolve disagreements with early intervention service agencies or to address alleged violations of any state and federal statutes or regulations.

Hearings, and State Complaints

- CFR 303.419
CCR 52173 ♦ *As a parent, you have the right to*
- CCR 52173 ♦ 1. file a request for mediation as the initial option for resolving a dispute or any time during the due process hearing or complaint process;
- CCR 52173 ♦ 2. request a due process hearing or file a state complaint if the disagreement is not resolved;
- CFR 303.419
CCR 52173 ♦ 3. refuse to participate in mediation;
- CFR 303.419
CCR 52173(c) ♦ 4. have an impartial person facilitate the mediation conference;
- CFR 303.419
CCR 52173 ♦ 5. require that the mediation conference is carried out at a time and in a location that is reasonably convenient for you;
- CFR 303.419(b)
CCR 52173(j) ♦ 6. have all personally identifiable information maintained in a confidential manner; and
- CFR 303.419
CCR 52173(i) ♦ 7. receive a written document outlining the agreements reached as a result of the mediation conference.
- ♦ Requests for mediation are filed with the:
- CCR 52173 ♦ Office of Administrative Hearings
♦ Attention: Early Start Intervention Section
♦ 2349 Gateway Oaks Drive, Suite 200
♦ Sacramento, CA 95833
♦ (916) 263-0654 Fax: (916) 376-6318
- ♦ **Due Process Hearings**
- CFR 303.420
CCR 52172 ♦ All parents are encouraged to resolve differences at the lowest administrative level possible. When differences between you and a regional center or LEA cannot be resolved, due process hearings are available. You, as a parent, are encouraged to seek assistance from your child's service coordinator, the regional center, or the Special Education Local Plan Area (SELPA) office.
- CCR 52172(a) ♦ Circumstances leading to a due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services.

Complaints, Mediation Conferences,

- ◆ CCR 52172(g) Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless you and the regional center or LEA otherwise agree to a change. If your disagreement involves a new service that has not started, your child will receive all services identified on the IFSP that are not in dispute. This does not include your regional center providing early intervention services after your child has reached 36 months of age, as federal law and regulations do not allow states to pay for early intervention services under any circumstances once your child transitions from Early Start. The program or programs your child enrolls in subsequent to transition from Early Start is responsible for providing you and your child services for which he or she is eligible to receive.

◆ Requests for a due process hearing are filed at the following address:*

- ◆ CCR 52172 Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833
(916) 263-0654 Fax: (916) 376-6318

◆ *The due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, and the Department of Developmental Services (DDS) website: www.dds.ca.gov/Forms/pdf/DS1802.pdf

- ◆ CCR 52172(e) The due process hearing must be completed within 30 days of receipt of the request by the Office of Administrative Hearings. The timely issuance of the written decision may not be delayed by any concurrent voluntary local efforts to resolve the matter. The decision will be final unless appealed.

- ◆ CFR 303.421(a)
CCR 52172 As a parent, you have the right to:
 1. have the due process hearing conducted by an impartial person, not employed by an agency serving your child, who is knowledgeable in the laws

Hearings and State Complaints

- CCR 52171 ♦ 6. have any issue in a complaint that is not part of a due process hearing be resolved by DDS within 60 days of the receipt of the complaint;
- CCR 52171 ♦ 7. be notified by DDS that the hearing decision is binding if an issue is being raised in a complaint that had previously been decided in a due process hearing involving the same parties; and
- CCR 52171(e) ♦ 8. have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision.

The complaint must

- CCR 52172(a) ♦ 1. be in writing and contain a signed statement alleging that DDS, CDE, the regional center, LEA, or other service provider involved with Early Start has violated a federal or State law or regulation;
- CCR 52172(f) ♦ 2. provide the name, address, and phone number of the complainant;
- CCR 52172(f) ♦ 3. contain a statement of facts upon which the violation is based;
- CCR 52172(f) ♦ 4. include the name of the party against whom the complaint is being filed;
- CCR 52172(e) ♦ 5. have occurred not more than one year before the date the complaint is received by DDS unless a longer period is reasonable because the alleged violation continues for the child or other children, or
- CCR 52172(e) ♦ 6. have occurred not more than three years before the date on which the complaint is received by DDS if the complainant is requesting reimbursement or corrective action as remediation of the complaint;
- CCR 52172(f) ♦ 7. the complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint; and
- CCR 52172 ♦ 8. be withdrawn if the complainant elects to participate in mediation within the 60-day complaint investigation.



**IDEA 2004 – Part C
Definition and Application Changes**

The Individuals with Disabilities Education Act (IDEA 2004), reauthorized by Congress on November 19, 2004 and signed into law on December 3, 2004, includes revisions to IDEA 1997 as well as some new provisions. All provisions of the new special education law are effective July 1, 2005. California must assure that the provision of Part C Early Start Birth to Three services is consistent with the new requirements. Current California Early Start policies and procedures, in coordination with IDEA 2004 requirements, will be the authority for the provision of Part C Early Start services pending the publication of the final Federal regulations and revised State policies and procedures.

This document does not address all of the revisions and new provisions in IDEA 2004 but offers direction on the issues around this topic that have the most impact on decision making and service delivery in the Southwest SELPA. Revisions and/or additions to the law are added in **bold text**.

Services under Part C are intended to meet the ever changing needs of the child and family with respect to the uniqueness of every child and family structure. IDEA 2004 intends for service decisions to be individualized and for services to support each family and child within their daily routines and activities.

Changes to Part C, Section 632. DEFINITIONS. are as follows:

- ◆ Section 632(4)(C) – *EARLY INTERVENTION SERVICES...are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team,*

The revised law emphasized that service decisions be made by the IFSP team, including the parents. In order for a team to fully participate in service decisions each member of the team must be knowledgeable about the child's disability and fully informed about the child's present levels of development and the family's priorities, concerns and resources. Coordination of team meetings and communication, including all team members, will be instrumental in ensuring full participation of the entire team. Services should not be identified in isolation since each service impacts the provision of other services.

- ◆ Section 632(4)(E)(iii) -- *EARLY INTERVENTION SERVICES include...speech-language pathology and audiology services, and sign language and cued language services.*

Early intervention services are designed to meet the unique needs of infants and toddlers with a developmental delay or disability. IDEA 2004 has added the new provision of *sign language and cued language services* so families with deaf or hard of hearing children will have the full

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range of options to help their infant or toddler develop age appropriate languages in whatever modality the family chooses. Report language accompanying bill stated:

Dramatic improvements in hearing technology, both hearing aids and cochlear implants, provide new opportunities for families who wish to pursue spoken language for their child with hearing loss. These new materials and efforts further the goals of the IDEA that early intervention personnel actively provide comprehensive and bias-free information on the range of language options available to a child with hearing loss, including the benefits of early amplification and/or early implantation of a cochlear implant.

- ◆ Section 632(4)(F)(viii) – *EARLY INTERVENTION SERVICES are provided by qualified personnel, including registered dietician.*

The term Nutritionist was change to registered dietician. California will have to determine if the highest entry level standard for a nutritionist in the Early Start system will meet the licensure requirements for a registered dietician.

- ◆ Section 632(4)(F)(x) -- *EARLY INTERVENTION SERVICES are provided by qualified personnel, including vision specialists, including ophthalmologists and optometrists.*

California will have to determine the personnel standards and service definitions for these categories.

Changes to Part C, Section 634. ELIGIBILITY. are as follows:

- ◆ Section 634(1) – *California must adopt a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including all Indian infant and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and...*

IDEA 2004 (and eventually California regulations) will align with the McKinney-Veto Act (Subtitle VII-B of the Act, the Education for Homeless Children and Youths program (42 U.S.C. ~11431-11435). The McKinney-Vento Act is a federal law that supersedes conflicting state laws or local policies. It guarantees that homeless children and youth will be identified by local school districts and served appropriately.

Changes to Part C, Section 635. REQUIREMENTS FOR A STATEWIDE SYSTEM are as follows:

- ◆ Section 635(a)(2) -- *California's state-wide system of providing early intervention services to eligible infants and toddlers shall include A State policy that is in effect and that*



ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families...

California will define *scientifically based research, to the extent practicable* when state regulations are proposed. In the meantime, the definition and standard proposed in the document *NCLB Scientifically-based Research* can serve as a reasonable guide for this phrase. See - <http://www.setda.org/NLItoolkit/SBR/sbr01.htm>

- ◆ Section 635(a)(16)(B) -- *Policies and procedures to ensure that... the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.*

The natural environment is still the location of choice for service delivery. However, when the IFSP team including the parents determines that a setting other than the natural environment is more appropriate, then that setting can be used. It is likely that California regulations will continue to require a justification for settings other than the natural environment.

Changes to Part C, Section 636. INDIVIDUALIZED FAMILY SERVICE PLAN. are as follows:

- ◆ Section 636(a)(3) -- IN GENERAL -- states shall ensure *that each infant or toddler with a disability, and the infant's or toddler's family will receive a written individualized family service plan developed by a multidisciplinary team, including the parents, ... including a description of the appropriate transition services for the infant or toddler.*

California Early Start Regulations (2003) (Title 17 California Code of Regulations) already describes the transition process and timelines. The addition of this wording in IDEA 2004 ensures that the process and timelines are included as a written part of the IFSP document.

- ◆ Section 636(d)(3) -- *The individualized family service plan shall be in writing and contain--a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child....*

The multidisciplinary team assessment will include an evaluation of the child's communication skills including receptive and expressive language skills, articulation, and pre-literacy skills. Emergent literacy is a developmental process that begins at birth whereby children acquire the skills and knowledge that are the foundation for later reading and writing. For infants and toddlers, thought and language develop concurrently. Communication and language provide the foundation for literacy—the



ability to read, write, and otherwise communicate with, or comprehend written language. Literacy develops from children's oral language and their early attempts at reading (usually based on pictures) and writing (at first, scribbling).

- ◆ Section 636(d)(4) -- *The individualized family service plan shall be in writing and contain—a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services.*

California will define *peer-reviewed research, to the extent practicable* when state regulations are proposed. In the meantime, the definition and standard proposed in the document *NCLB Scientifically-based Research* can serve as a reasonable guide for this phrase. See - <http://www.setda.org/NLltoolkit/SBR/sbr01.htm>

- ◆ Section 636(d)(6) -- *The individualized family service plan shall be in writing and contain—the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;...*

California Early Start regulations already define these terms. It remains to be seen if future regulations adopt different definitions.

- ◆ Section 636(d)(7) -- *The identification of the service coordinator...who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and...*

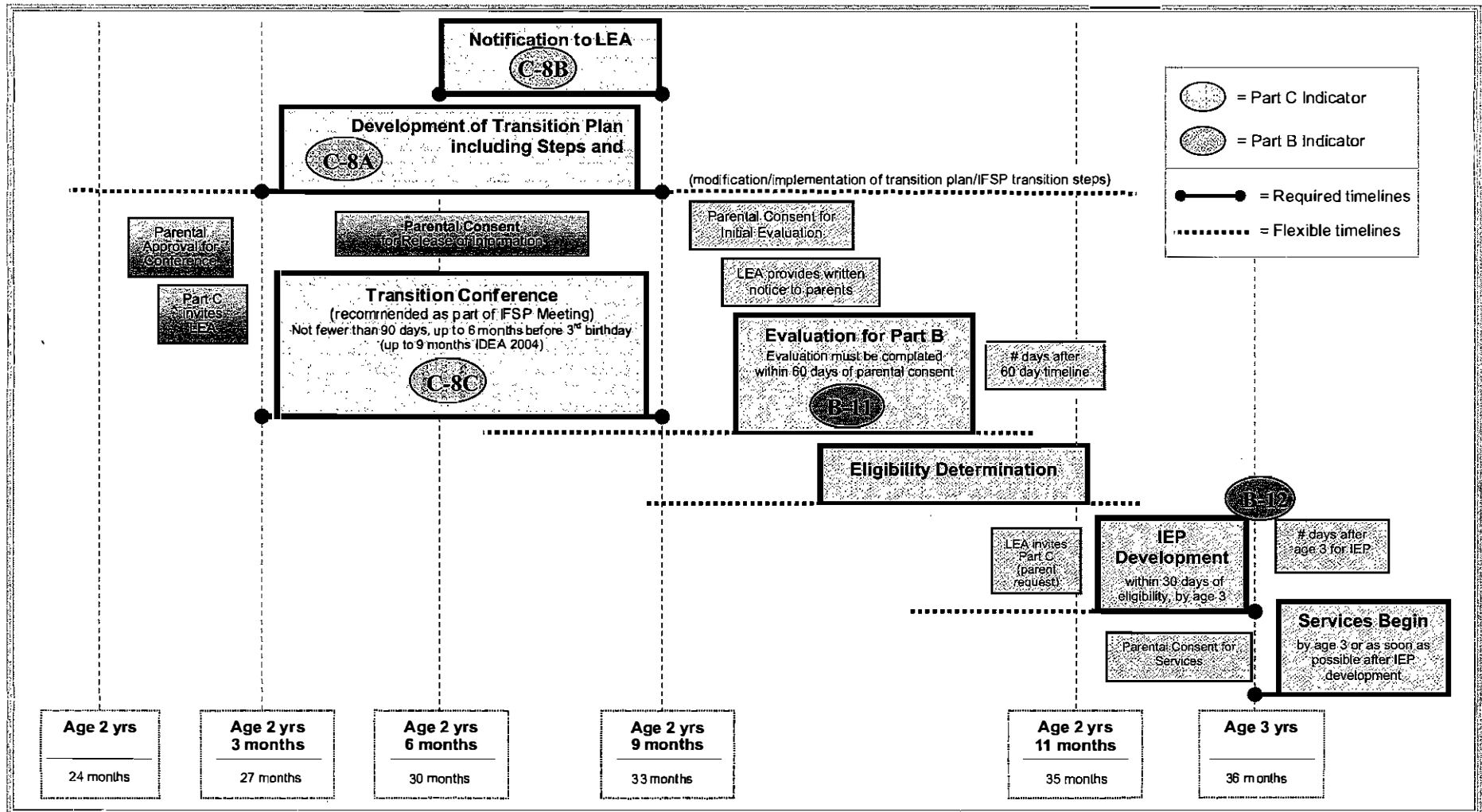
California Early Start regulations already assign the responsibility of coordinating the transition services to the service coordinator.

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Early Childhood Transition from Part C to Part B Timeline Requirements





SOUTHWEST SELPA
EARLY START PROGRAM

Infant/Toddler Referral and Intake Process

1. Referral information is received by SELPA Early Start Coordinator from primary referring agency.
 - A referral may be made orally or in writing by the parent, a doctor, or any other service provider or primary referral source. A fax, phone call or email describing the child's needs and making the request is sufficient to initiate the process.
 - Federal and state regulations require that referrals be made "within two (2) working days of identification of an infant or toddler who is in need of early intervention services."

 2. Early Start Coordinator contacts parent, LEA, and LACOE Program
Referral is verbally acknowledged and Southwest SELPA Parent Letter is sent to parents.
 - The parents are contacted by the Early Start Coordinator via telephone upon receipt of the initial referral. The referral is verbally acknowledged. Information about Early Start, program and services options and LEA and LACOE Early Start contact information is provided. Questions that the parent(s) have are answered.
 - Subsequent to the phone conversation, a letter is sent to the parents by the Early Start Coordinator. Information on the Early Start Program and the Southwest SELPA Special Education Family Resource Center, and a copy of *Parents Rights Under Early Start* is mailed to the parents. Contact information (e.g. school district contacts and LACOE program contacts) is included in the letter to the parents.
 - The Southwest SELPA Early Start Referral Memo is written by the Early Start Coordinator with information that was provided by the primary referral source. The memo is faxed to the appropriate school district and LACOE Program within two (2) working days from the time the infant or toddler is referred.
- Southwest SELPA Early Start Referral Memo
- The Early Start Coordinator acts as the interim service coordinator until a permanent service coordinator (usually the receiving Early Start Teacher) is assigned. The permanent service coordinator may be assigned when the LACOE Program receives the referral memo. Alternatively, the Program may wait until



the signed Interdistrict Referral has been received from the LEA to assign the permanent service coordinator.

3. Early Start Coordinator documents initial referral activities in Early Start Log
Early Start Log

- The initial referral information and contact with parents and programs is documented in this log and updated by the Interim Service Coordinator while the child is receiving Early Start services.

4. Parents, LACOE Early Intervention (EI) Program and School District (LEA) collaborate to complete the necessary paperwork.

Southwest SELPA Interdistrict Request for Service and accompanying documentation

- Each school district has different procedures for registering an infant or toddler for services. However the school district must **ALWAYS** complete the *Southwest SELPA Interdistrict Request for Service* (with administrator and parent signature) and forward it to the appropriate LACOE EI program. The school district may also complete or, the LACOE Early Intervention program will assist the parent to provide the following documents:
 - Immunization Record
 - Family Needs Survey
 - Home Language Survey

The LACOE EI Program will assist the parent in completing the following releases:

- Parent/Guardian Release Authorization for Photographs (optional)
 - Division of Business Operations Release from Responsibility (transportation release only if toddler is riding the bus to a center-based program)
 - Authorization to Share Information
 - Emergency Medical Information and Treatment Authorization (for infants enrolled in home services AND toddlers who are enrolled in a center-based program.
- When the LACOE program receives the signed *Southwest SELPA Interdistrict Request for Service* (and supporting documentation), the **45-day timeline** for completing the evaluation and hold the IFSP meeting begins. The Request for Service should be date-stamped upon receipt to document the timeline.

5. Acknowledgement of Early Start Referral Letter

- This form letter is completed by the receiving Service Coordinator and sent to the parent(s) immediately upon receiving the signed *Southwest SELPA Interdistrict Request for Service*.



6. Contact Log

- The contact log is started by the EI Program Service Coordinator. It is used to document contacts between the Service Coordinator/LACOE EI Program teacher and the family or service providers on behalf of the infant/toddler and family.

7. Evaluation and Assessment Plan Cover Letter

- This form letter is completed by the EI Program Service Coordinator. Include this letter with the Evaluation and Assessment Plan form when mailing to parents when given to parents during a home visit. A copy of this letter should be kept in the CUM.

8. Early Start Consent for Evaluation and Assessment Services

For each child, birth through age two years old who has been referred, a timely, comprehensive, and multidisciplinary team evaluation of the child's developmental functioning shall be completed.

- Multidisciplinary means the involvement of two or more disciplines or professions.
- Refer to the numeric list of team members. Designate which members will be involved in the assessment by writing in front of each area to be assessed/evaluated.
- A copy of *Parents' Rights and Responsibilities in the Early Start Program* under IDEA must be offered to the parent(s).
- Parent(s) must sign consent for the multidisciplinary evaluation to be completed. A copy of the signed *Consent for Evaluation and Assessment* should be kept in the child's CUM.
- The evaluation and assessment process should include (if not already completed by the school district) a *Family Needs Survey* identifying the needs of each child's family to appropriately assist in the development of the child. *The Family Needs Survey is voluntary on the part of the family.*
 - Assessment means the ongoing procedures used by qualified personnel with the child and the family throughout the period of the child's eligibility. The child's assessment identifies:
 - the child's unique strengths and needs
 - the services that are appropriate to meet those need for the child



- The **family assessment** is used to identify
 - the resources, priorities, and concerns of the family
 - the supports and services needed to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability

9. Individual Family Service Plan (IFSP) Pupil Log

- This log is used to document the components of the referral and IFSP process from the initial referral to the Transition Plan and exit of the infant/toddler at three (3) years of age. This log is used to document **ONLY** that a meeting took place **AND** that copies of the completed IFSPs were sent to the Student File Center (Case Records), the school district, to another teacher, to LACOE Translation, the service coordinator/teacher file, etc., as appropriate. Documentation of contacts with parents and/or other contacts is maintained in the Contact Log.

10. Parent/Guardian Confirmation of Individual Family Service Plan Meeting (ages birth to two years 11 months)

- This letter is completed by the Service Coordinator. It is sent to the parent(s) or guardian(s) of the child to confirm an IFSP planning meeting. Copies should also be sent to other meeting participants. Meeting arrangements must be made with the family (and other participants) *early enough before the meeting date to ensure that they will be able to attend*. Often, dates, time, and locations of the meeting have already been discussed and confirmed verbally in a phone conversation with parents and providers. These conversations should be documented in the Contact Log. If the Confirmation Letter is delivered to the parent at the time of the IFSP meeting, a note on the Contact Log should indicate that arrangements were discussed and agreed to well before the meeting date.
- IFSP meeting must be conducted in settings and at times that are convenient to families; and
- In the language of parent's choice unless it is clearly not feasible to do so.

11. Enrollment Record/Infant MIS Information

- This form is completed by the Service Coordinator after the initial IFSP meeting is held. It may also be completed after each periodic or annual review or whenever services are changed. Enrollment records should be reviewed for updated information at least once per year.



How to complete the *Southwest SELPA Interdistrict Request for Service* for infant/toddler (Birth – 3) referrals to LACOE programs

- | | | |
|-----|--------------------------|--|
| 1. | Program Providers | A. Check <i>LACOE</i> box B. Check <i>Infant</i> box |
| 2. | Referring District | Name or initials of home school district |
| 3. | Suspected Disability | Check box based on information available |
| 4. | Parallel Admin. Transfer | Check this box if the infant/toddler was receiving services in another county or state, has moved to this area, has a current and signed IFSP |
| 5. | Demographic Information | A - M. Fill in based on information from parents |
| 6. | Referral Information | A - L. Fill in the date that the information was completed or state "attached" to indicate that the forms or reports are included with the referral including: Immunizations; Home Language Survey; Medical report with diagnosis. If available, attach evaluations, reports, current IFSP |
| 7. | School History | Fill in "N/A" |
| 8. | Previous | Fill in "N/A" unless parallel transfer - then indicate previous provider(s) |
| 9. | Referred by | A. Check <i>School District and Parent</i> B. Indicate referring administrator's name, title, school district, phone number |
| 10. | Signatures | A. Parent (or...) signs and dates B. Administrator (or...) signs and dates |

For infants or toddlers (Birth – 3 years of age) with Visual Impairments, Orthopedic Impairments, Deaf or Hard of Hearing Impairments:

11. **SCAN** a copy of the completed and signed *SW SELPA Interdistrict Request for Service* to fisher_jennifer@lacoed.edu. This referral will start services immediately.
- 11a. **FAX** a copy of the completed and signed *SW SELPA Interdistrict Request for Service* to Jennifer Fisher, Program Specialist SW SELPA Early Start (310) 944-3540. This referral will start services immediately.
12. **JET MAIL** the completed referral packet to Jennifer Fisher *SW SELPA* or U.S. MAIL to Jennifer Fisher SW SELPA 320 Knob Hill Avenue Redondo Beach, CA 90277.

DO NOT FAX OR MAIL
ANY INFORMATION TO DOWNEY/LACOE/PAU

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Where are the Southwest SELPA's Early Start Programs?

All infants with a solely low incidence disability are served in programs operated by Los Angeles County Office of Education as coordinated and directed by the SW SELPA. These programs are as follows:

Services for infants and toddlers with orthopedic impairments:

FIRST STEPS & Beyond

(Supporting Families with Infants, Toddlers with Education, Play & Services)

Imperial PAU: Marsha Schulz, Principal
12495 Isis Avenue Hawthorne CA 90250
Phone: (310) 536-9112
Fax: (310) 536-7118

Imperial School Priority placement for northern school districts
Kathleen Davis, Teacher & Service Coordinator
Davis_kathleen@lacoed.edu
12495 Isis Avenue Hawthorne, CA 90250
Phone: (310) 536-9112 ext. 252
Fax: (310) 536-7118

Jefferson School Priority placement for southern school districts
Jennifer Strutzenburg, Teacher & Service Coordinator
Strutzenburg_jennifer@lacoed.edu
1820 Havemeyer Lane Redondo Beach, CA 90278
Phone: (310) 376-7921, Ext. 1
Fax: (310) 379-0344

**Services are center-based and in-home and in coordination with
California Children's Services (CCS)**

Services for infants & toddlers with vision impairment or blindness:

B.R.A.I.L.L.E. (Building Rapport and Information with Loving Lessons for Exceptional Children)

Larson- West PAU: Lucy Madden, Assistant Principal
4450 West 182nd St Redondo Beach CA 90278
Phone: (310) 921-3570, Ext. 27



Fax: (310) 921-3751

Southwest Support Service Center

Ellen Eifert, Teacher & Service Coordinator
SW Support and DIS Service Center Bldg A
1501 N. Peck Avenue, Manhattan Beach 90266
Eifert_ellen@lacoed.edu
Phone: (310) 546-1834, Ext. 248
Fax: (310) 546-8504

Joe Snead, Orientation & Mobility Specialist
SW Support and DIS Service Center Bldg A
1501 N. Peck Avenue, Manhattan Beach 90266
Snead_joe@lacoed.edu
Phone: (310) 546-1834, Ext. 243
Fax: (310) 546-8504

Services for infants & toddlers who are deaf or have hard of hearing impairments:

Larson-West PAU: Joe Godfrey, Principal
4450 West 182nd St Redondo Beach CA 90278
Phone: (310) 921-3570
Fax: (310) 921-3751

Larson-West Regional Deaf/Hard of Hearing Program

ABC Early Start (Acquiring and Building Communication - ES)

Washington School

Linda Campbell, Teacher & Service Coordinator
Campbell_linda@lacoed.edu
Coco Larson-Tuttle, Audiologist
Alene Litton, Speech/Language pathologist
1150 Lilienthal Lane Redondo Beach 90278
Phone: (310) 379-2403, x 24
Fax: (310) 379-3703



REACH (Realizing Early Achievement in Children's Hearing)
Specialized transition program for children who are pre- or post-cochlear implant recipients

Wood School

Beth Freed, Teacher & Service Coordinator
Sue Reyes, Audiologist
Jessica Baer, Speech/Language Pathologist
2250 W. 235th Street Torrance 90501
Freed_beth@lacoed.edu
Phone: (310) 325-7489
Fax: (310) 325-7529

REACH UP (Realizing Early Achievement in Children's Hearing Infant/Toddler)
For children with unilateral hearing loss (atresia or mild to moderate loss in one ear or mild bilateral loss)

Wood School

Camyn Rappoport, Teacher & Service Coordinator
Coco Larson-Tuttle, Audiologist
Jessica Baer, Speech/Language Pathologist
2250 W. 235th Street Torrance 90501
Rappoport_camyn@lacoed.edu
Phone: (310) 325-5318
Fax: (310) 325-5318

In addition to the center-based programs, in-home services and audiology



ADDITIONAL RESOURCES FOR
EARLY START INFORMATION

California Department of Developmental Services (DDS)

Children and Family Services Branch

Phone: (916) 654-2773
TTY: (916) 654-2054
Fax: (916) 654-3255

BabyLine

Phone: (800) 515-BABY
Website: www.dds.ca.gov/earlystart

Early Start Complaint Unit

Phone: (916) 654-1888
Fax: (916) 651-8210
Website: www.dds.ca.gov/complaints/complmt_home.cfm

Regional Centers

Harbor Regional Center

21231 Hawthorne Blvd.
Torrance, CA 90503
Phone: (310) 540-1711
Toll-free: (888) 540-1711
Fax: (310) 316-8843
Website: www.harborrc.org

Family and Professional Resource Center

Contact: Barbara del Monico
Phone: (310) 543-0691
Fax: (310) 540-8471
Email: BarbaraD@hddf.com or FRC-library@hddf.com

South Bay Cities Early Intervention Coordinating Council

Contact: Valerie Dawson
Phone: (310) 543-0691

Westside Regional Center

5901 Green Valley Circle, Suite 320
Culver City, CA 90230
Phone: (310) 258-4000
Fax: (310) 258-0571
Website: www.westsiderc.org

Westside Family Empowerment Center

Contact: Liz Spencer



Phone: (310) 258-4063
Fax: (310) 338-3664
Email: lspencer@westsiderc.org

California Department of Education – Special Education Division (CDE/SED)

Phone: (916) 445-4613
TTY: (916) 323-9779
Parent Information Line:
(800) 434-2465
Fax: (916) 327-3516
Website: www.cde.ca.gov/spbranch/sed

Southwest SELPA

320 Knob Hill
Redondo Beach, CA 90277
Mary P. Ring, Director
Phone: (310) 944-3217
Fax: (310) 944-3540

Family Resource Center

Contact: Christy Cole
Phone: (310) 944-3217 x248
Email: sw_frc@lacoedu





SECTION 8

SECONDARY TRANSITION



SECONDARY TRANSITION

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SECONDARY TRANSITION

8.1 INTRODUCTION

Transition services (designed with a results oriented process focused on improving academic functional achievement of the student) must be addressed in the IEP of the student not later than in the year in which he/she turns 16 years of age. The goal of transition services is planned movement from secondary education to adult life that provides opportunities which maximize economic and social independence in the least restrictive environment for individuals with exceptional needs. Planning for transition from school to postsecondary environments should begin in the school system well before the student leaves the system. (30 EC 56460)

Transition is all about planning for a student's future and how academic courses, functional curriculum and vocational activities help move a student towards the future goal. Discussion about transition or future planning should be addressed at the beginning of the IEP team meeting so that the IEP team is focused throughout the meeting on helping the student work towards his or her future goals. The goal of transition is to provide the student with all the skills, knowledge and support necessary to make their post school goals a reality.

8.2 DEFINITION OF TRANSITION SERVICES

The term "transition services," is a coordinated set of activities for students with special needs that does all of the following:

- (1) Is designed within an results-oriented process, that is focused on improving the academic and functional achievement of the individual with exceptional needs to facilitate the movement of the pupil from school to post-school activities, including postsecondary education, vocational education, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.
- (2) Is based upon the individual needs of the pupil, taking into account the strengths, preferences, and interests of the pupil.
- (3) Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
- (4) Transition services for students with special needs may be special education, if provided as specially designed instruction, or a designated instruction and service, if required to assist a pupil to benefit from special education. Is based

upon the individual needs of the pupil, taking into account the strengths, preferences, and interests of the pupil.

- (5) Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. (56345.1. (a))

8.3 TIMELINE FOR DEVELOPING INDIVIDUAL TRANSITION PLAN

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter:

- (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 course of study) needed to assist the child in reaching those goals; and
- (c) beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18.

8.4 AREAS TO BE ADDRESSED

8.4 A. Instruction

The IEP is an individualized instructional and support plan for students with disabilities. The transition planning, activities and services detailed in the IEP align instruction with student's post-secondary goals.

8.4 B. Related Services

The IEP must describe any related services the student may need, such as transportation to a work experience or career counseling to help the student prepare for his or her future goals.

8.4 C. Community Experiences

Instructional activities may take place in the community such as community based instruction to help students generalize the skills learned in the classroom to the real world.

8.4 D. Employment

All students should have employment related language in their IEP. For some students this may be a goal to go to college; for others it may mean job training or supported employment. Other students may go right to work after leaving school. LEAs are responsible for helping students identify their goals and develop plans that prepare students to achieve.

8.4 E. Daily Living Skills and Functional Evaluation

Some students may need specific instruction and activities in order to learn to take care of themselves and live as independently as possible. Some students may need a functional evaluation to determine which skills they will need to develop so that they are able to enter employment or live independently.

8.5 OTHER AGENCY INVOLVEMENT

A representative from any agency that is likely to be responsible for providing or paying for transition services may be invited to the IEP beginning when the student is 16 or younger if appropriate with parental consent or consent of adult student.

If a participating agency (other than the district) fails to provide the transition services described in the IEP, the IEP team will reconvene to identify alternative strategies to meet the transition objectives for the student.

If an invited agency representative cannot attend the IEP meeting to develop transition services, the district will obtain agency participation in planning for these services by some other means.

8.6 IEP TEAM PARTICIPANTS FOR SECONDARY TRANSITION**Student**

Role: Participates, communicates preferences and interests, communicates strengths, and takes part in the IEP development.

CFR 300.321(b) *Transition services participants.* (1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under § 300.320(b). (2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered. (3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Parent/Family

Role: Supports the student, reinforces the value of an individual program, and provides information about student's strengths and areas where assistance is needed.

Special Education Specialist

Role: Provides information, provides teaching strategies including accommodations and or modifications, suggests course of study related to student's post school goals; identifies related services, provides input into transition service needs, links student and parents with appropriate post-school services, coordinates all people, agencies, services or programs involved in the transition planning process

General Education Teacher

Role: Assists in planning course of study, assists in identifying and providing modifications, adaptations, support and positive behavioral strategies or interventions.

(34 CFR 300.321 – Not less than one regular education teacher of such child if the child is, or may be, participating in regular education)

LEA Representative

Role: Support staff and allocate LEA resources

- Qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities
- Is knowledgeable about the general curriculum and the availability of resources of the LEA
- Has the authority to commit the LEA to implement the IEP
- LEA may designate another staff member of the IEP team if these criteria are met.

Other Specialists

- Who can interpret the instructional implications of evaluation results
- Who may be one of the team members already listed.

Other Appropriate Agency Personnel

Role: Provide information about services, eligibility criteria, explain difference between entitlement of school programs and eligibility of adult services, assist in identifying community or adult services

8.7 POST-SECONDARY GOALS

The IEP must document development of measurable postsecondary goals based on age-appropriate transition assessments. The IEP for students 16 years old or younger, if appropriate, must contain: appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; (bb) the transition services (including courses of study) needed to assist the child in reaching those goals. [Section 614(d) (1) (A) (i) (VIII)]

8.8 SUMMARY OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

The Summary of Academic Achievement and Functional Performance is not part of the IEP process. The summary is prepared by the LEA and provided to the student when he/she leaves school, either by graduating with a general diploma or reaching the age of 22. The summary will offer the student a document that summarizes his/her academic and functional performance with recommendations about what accommodations and supports the student may need to enter post-school activities, such as training, higher education, employment, and independent living. For a student whose eligibility terminates, a LEA shall provide the student with a summary of his/her academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the his/her post-secondary goals. (Section 614(c) (5) (B))

NOTE: Refer to Appendix B for resources related to Summary of Academic Achievement and Function Performance.

8.9 TRANSFER OF RIGHTS AT AGE OF MAJORITY

The IDEA '04 continues the requirement of notifying the student and family that educational rights convert to the student upon reaching the age of majority, which is 18 years old in California: beginning not later than 1 year before the student reaches the age of majority under State law, a statement that the student has been informed of his/her rights if any, that will transfer to the child on reaching the age of majority. (Section 614(d) (1) (A) (i) (VIII), emphasis added)

8.10 POST-SECONDARY FOLLOW UP

The State requires districts to seek information from students who have graduated from high school to collect data on post school outcomes.

NOTE: Refer to Appendix B for resources related to Post-Secondary Follow-Up Letter

8.11 STUDENTS BETWEEN NINETEEN AND TWENTY-TWO YEARS

Between the ages of nineteen and twenty-one, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her nineteenth birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards.

- A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs.
- B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in September or that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.
- C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individualized education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.
(E.C., Sec. 56026: (c) (4))

Refer to *Transition to Adult Living, An Information and Resource Guide*, California Department of Education, 2007 on the following website:
http://www.calstat.org/publications/pdfs/transition_guide_07.pdf

**TRANSITION LEGAL REQUIREMENTS
AND RESOURCES FOR IMPLEMENTATION**

Goals for Students with Disabilities According to IDEA

To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them **for further education, employment, and independent living**

IDEA and IDEIA-Past and Present

The **IDEA of 1990** required planning for post-school transition at IEP meetings for all students with disabilities. The law required that students be invited to attend the IEP meeting and that transition services and planning be addressed in the following areas:

- Instruction
- Employment and Other Post-school Adult Living Objectives
- Community Experiences
- IF Appropriate, Daily Living Skills
- Functional Vocational Evaluation

The **IDEA of 1997** further expanded transition planning in the IEP to include related services necessary to achieve the activities stated in the transition plan and required procedures for the transfer of legal rights from the parent to the student upon reaching the age of majority under state law.

The **IDEIA 2004** introduced some changes concerning transition services. Under the new law "**transition services**" means a coordinated set of activities for a child with a disability that:

- (A) is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing an adult education, adult services, independent living, or community participation.
- (B) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and
- (C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.



For resources for students with Mild/Moderate disabilities there are monthly grade level lesson plans provided on <http://animopd.org> (Click on Special Education then submenu Transition Resources).

The topics of these lesson plans are found on the upper right hand column titled "Essential M/M Transition Grade Level Benchmark Matrix".

Additional worksheets are found in the "Transition Student Portfolio".

IDEIA 2004 also requires that students receive **age appropriate transition assessments** related to education, employment and where appropriate, independent living skills. IDEIA 2004 also states that age appropriate assessments will help IEP teams make informed decisions about students reaching their postsecondary goals.

For transition assessment resources visit:

<http://animopd.org> (Click on Special Education then submenu Transition Resources)

- Under "Transition Assessment Manual" click on Section 4-Initial Transition Assessment. Instructions on how to utilize this rating scale is found in the "Cover, Table of Contents and Procedures".
- Under "Transition Student Portfolio" there are:
 - Learning Style and Aptitude Assessments under Section 2
 - Employability Assessments under Section 5
- Additional Assessments are found under "September Transition Lessons"

Transition Requirements

Summary of Performance

A local education agency shall provide a child whose eligibility terminates because of receiving a high school diploma, or due to exceeding the age of eligibility, with a summary of the child's academic achievement and functional performance. The summary shall:

- Include results of transition focused assessments
- Be written in a way that communicates key information that will assist the student in gaining access to and participating in post secondary education and employment
- Clearly indicate the students post secondary goals and their progress towards meeting those goals.
- Eliminate the need for unnecessary testing and will improve interagency linkages.

For resources in developing a Summary of Performance:

On SEIS, click on "document library" located on the left hand tool bar. Then click on "High School Transition" and view:

- "PPT SOP"
- "Summary of Performance Forms"
- "IEP's for Students Exiting Special Education"
- "Exit Dates for 22 year olds"

Individual Transition Plan

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, an ITP must be prepared to include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and the transition services (including courses of study) needed to assist the child in reaching those goals.

For resources in developing compliant Individual Transition Plans:

On SEIS, click on "document library" located on the left hand tool bar. Then click on "High School Transition" and view:

- "How to write ITP's" for a PPT presentation including screen shots of SEIS forms
- "Completing the Forms" for example transition plans
- "Example Post Secondary Goals and Services/Activities"
- "Transition Compliance Checklist"



Age of Majority

A statement that the child has been informed of the rights that will transfer to the child upon he/she reaching the age of majority under State law must be included in the IEP not later than a year before the child reaches the age of 18.

For an example letter to provide to parents/guardians to inform them of the transfer of rights, visit:

<http://animopd.org> (Click on Special Education then submenu Transition Resources)

- Under "Transition Assessment Manual" click on Section 11-Example Forms and Letters

*Additional Community/Agency Resources can be found on <http://animopd.org> (Click on Special Education then submenu Transition Resources) the under "Community Resource Guide".

*Information about the Transition programs that exist within the districts in the SW SELPA as well as LACOE programs in the South Bay area can be found at www.swselpa.org.

1. Click on "Services"
2. Click on "click here" under "Project Taps".



TAPS COMMITTEE/GREEN DOT/SELPA RESOURCES
<http://animopd.org> (Click on Special Education then submenu Transition Resources)

TRANSITION RESOURCES

To access the resources below, click the appropriate "PDF", "ZIP", or "XLS" link and save the file to your desktop.

If you have any questions, please contact Kevin Keelen at kevin.keelen@greendot.org. Thanks!

Transition Student Portfolio

Student Transition Portfolio Example - [PDF](#)

Section 1: Student Information - [PDF](#)

Section 2: Assmt Documentation & Assmts - [PDF](#)

Section 3: Post-Secondary Goals & Profile - [PDF](#)

Section 4: Education Training - [PDF](#)

Section 5: Employment - [PDF](#)

Section 6: Daily Independent Living Skills - [PDF](#)

Supporting Word Documents - [ZIP](#)

Transition Assessment Manual

Cover, Table of Contents, & Procedures - [PDF](#)

Section 1: Legal Reqs & Best Practices - [PDF](#)

Section 2: CDE Legal Reqs - [PDF](#)

Section 3: Transition GL Benchmarks - [PDF](#)

Section 4: Initial Transition Assessments - [PDF](#)

Section 4: Initial Trans. Assess. (Span) - [PDF](#)

Section 4: Assessment #1 (MS) - [XLS](#)

Section 4: Assessment #1 (MS - Spanish) - [XLS](#)

Section 4: Assessment #2 (MM) - [XLS](#)

Section 4: Assessment #2 (MM - Spanish) - [XLS](#)

Section 5: Assessment Doc & ITP PSG - [PDF](#)

Section 6: Interest & Personality Assmnt - [PDF](#)

Section 7: Assessment & Curric Recs - [PDF](#)

Section 8: Transition Terminology - [PDF](#)

Section 9: Contact & Online Resources - [PDF](#)

Section 10: Parent/Guardian Resources - [PDF](#)

Section 11: Example Forms & Letters - [PDF](#)

Community Resource Guide

0 - Table of Contents - [PDF](#)

A.1 - 4-Year Colleges & Universities - [PDF](#)

A.2 - 2-Year Colleges & Universities - [PDF](#)

A.3 - Community Adult School - [PDF](#)

A.4 - Regional Occupational Center - [PDF](#)

A.5 - Alternative Ed & Work Center - [PDF](#)

A.6 - Job Corps - [PDF](#)

A.7 - California Conservation Corps - [PDF](#)

A.8 - Los Angeles Urban League - [PDF](#)

A.9 - Military - [PDF](#)

A.10 - Braille Institute - [PDF](#)

A.10.1 - Low Vision Brochure (Eng) - [PDF](#)

A.10.2 - Low Vision Brochure (Span) - [PDF](#)

B.1 - Department of Rehabilitation - [PDF](#)

B.1.1 - Application (Eng) - [PDF](#)

B.1.2 - Application (Span) - [PDF](#)

B.1.3 - Consumer Information Handbook - [PDF](#)

B.2 - California Regional Centers - [PDF](#)

B.3 - Goodwill Industries - [PDF](#)

B.4 - Employment Development Dept - [PDF](#)

B.5 - Hire LA Youth Summer Emp - [PDF](#)

B.6 - Youth Opportunity Center - [PDF](#)

B.7 - Work Source - [PDF](#)

B.8 - Archdiocesan Youth Emp - [PDF](#)

C.1 - Metropolitan Trans Auth (MTA) - [PDF](#)

C.1.1 - Application (Eng) - [PDF](#)

C.1.2 - Application (Span) - [PDF](#)

C.2 - Access Paratransit - [PDF](#)

C.2.1 - Access Rider Guide - [PDF](#)

C.3 - Social Security Supp Income - [PDF](#)

C.4 - Recording for the Blind & Dys - [PDF](#)

C.5 - Greater LA Agency on Deafness - [PDF](#)

C.6 - LA County Mental Health Serv - [PDF](#)

C.7 - California Children's Services - [PDF](#)

D.1 - Online Resource List - [PDF](#)

Helpful External Links

Autism Speaks Transition Tool Kit - [LINK](#)

CHIIP Youth Transition Tool Kit - [LINK](#)

College Options (Intellectual Disabilities) - [LINK](#)

Colleges That Go Above & Beyond ADA - [LINK](#)

LA County Helps! - [LINK](#)

Mind Tools: Skills for an Excellent Career - [LINK](#)

Open the Doors to College - [LINK](#)

Star Works Employment Resources - [LINK](#)

Student's Guide: Special Resource Center - [LINK](#)

Transition Lessons

Essential M/M Transition Grade Level Benchmarks Matrix - [DOC](#)

**Note: All lessons below are based on the topics listed in the matrix*

September Transition Lessons

9th Grade Lesson - [PDF](#)
10th Grade Lesson - [PDF](#)
11th Grade Lesson - [PDF](#)
12th Grade Lesson, Part 1 - [PDF](#)
12th Grade Lesson, Part 2 - [PDF](#)
12th Grade Lesson, Part 3 - [PDF](#)

October Transition Lessons

9th Grade Materials - [PDF](#)
9th Grade Workshop - [PPT](#)
10th Grade Materials - [PDF](#)
11th Grade Materials - [PDF](#)
11th Grade Job Basics Review - [PPT](#)
12th Grade Materials - [PDF](#)

November Transition Lessons

9th Grade Materials - [PDF](#)
10th Grade Materials - [PDF](#)
11th Grade Materials - [PDF](#)
12th Grade Materials - [PDF](#)

December/January Transition Lessons

9th Grade Materials - [PDF](#)
10th Grade Materials - [PDF](#)
10th Grade Resume - [PPT](#)
11th Grade Materials - [PDF](#)
11th Grade Resume - [PDF](#)
12th Grade Materials - [PDF](#)
12th Grade FAFSA - [PPT](#)

12th Grade Supp Security Income - [PPT](#)

February Transition Lessons

9th Grade Materials - [PDF](#)
10th Grade Materials - [PDF](#)
11th Grade Materials - [PDF](#)
11th Grade Workshop - [PPT](#)
12th Grade Materials - [PDF](#)

March Transition Lessons

9th Grade Materials - [PDF](#)
9th Grade Internet Research - [PPT](#)
10th Grade Materials - [PDF](#)
11th Grade Materials - [PDF](#)
12th Grade Materials - [PDF](#)
Department of Rehabilitation - [PPT](#)

April Transition Lessons

9th Grade Materials - [PDF](#)
10th & 11th Grade Materials - [PDF](#)
11th Grade Materials - [PDF](#)

May Transition Materials

Instructions - [DOC](#)
Initial Assessment MM - [XLS](#)
Initial Assessment MM (Spanish) - [XLS](#)
Initial Assessment MS - [XLS](#)
Initial Assessment MS (Spanish) - [XLS](#)



SECTION 9

SUSPENSION AND EXPULSION/
DUE PROCESS



SUSPENSION AND EXPULSION/DUE PROCESS

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SUSPENSION AND EXPULSION DUE PROCESS

9.1 Discipline

A student identified as an individual with disabilities pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

A student with a disability can be expelled for violation of school conduct codes only when certain procedural safeguards are followed.

If an action is contemplated regarding behavior resulting in consideration for expulsion or involving a removal that constitutes a change of placement, the parents must be notified of that decision no later than the date on which the decision to take that action is made.

Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, the IEP team must meet to review the relationship between the child's disability and the behavior subject to the disciplinary action. (27 EC 48915.5)

NOTE: See Appendix A for Disciplinary Steps Flow Chart and Appendix B for Special Education Removals for Disciplinary Purposes (Fagen, Friedman & Fulfrost LLP)

9.2 Suspensions

9.2 A. Education Code Violations

The California Education Code Section 48900 states that a student shall not be suspended from school or recommended for expulsion unless the superintendent or principal of the school in which the student is enrolled determines that the student has committed an act defined below:

- (a) (1) *Caused, attempted to cause, or threatened to cause physical injury to another person.*
- (2) *Willfully used force or violence upon the person of another, except in self-defense.*
- (b) *Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.*
- (c) *Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a*

controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one

or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) "Electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

In addition to the reasons specified in Section 48900, a student may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has:

- *Committed sexual harassment as defined in Section 212.5. For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to students enrolled in kindergarten and grades 1 to 3, inclusive. (EC 48900.2)*
- *Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233. (Applies to a student in any grades 4 to 12, inclusive) (EC 48900.3)*
- *Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. (Applies to a student in any of grades 4 to 12, inclusive) (EC 48900.4)*
- *Made terroristic threats against school officials or school property, or both. For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (EC 48900.7)*

9.2 B. Suspension Related to School Activity

A pupil may not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following: (EC 48900(s))

- (1) While on school grounds*
- (2) While going to or coming from school*
- (3) During the lunch period whether on or off the campus*

(4) During, or while going to or coming from, a school sponsored activity

A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section. (EC 48900 (v)) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any student who is truant, tardy, or otherwise absent from school activities. (EC 48900 (w))

If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program. (EC 48915.5 (c))

9.2 C. Total Number of Days of Suspension

The total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year. (EC 48903)

The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated above in Section 48900, for no more than five consecutive school days. (EC 48911)

Suspension by the principal, the principal's designee, or the superintendent of schools shall be preceded by an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

A principal, the principal's designee, or the superintendent of school may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school

personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

9.2 D. Notification to Parents

At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. A school employee shall report the suspension of the pupil, including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior. No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference. (EC 48911)

9.3 Suspension of Students with Exceptional Needs

Suspension of students with exceptional needs requires that the school administrators and IEP team members understand the limits of suspension of students with disabilities, requirements for IEP review following suspension, and alternatives to suspension.

9.3 A. Limits of Suspension of Students with Disabilities

As noted previously, the principal, principal's designee or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900. An individual with exceptional needs may be suspended for up to, but not more than five consecutive school days. The student may be suspended for up to 10 days before an IEP team manifestation determination meeting is required. The student can be removed for more than 10 days for separate acts of misconduct, as long as the removals do not constitute a pattern. During any removal of more than ten days the school must provide services to the extent determined necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals on his or her IEP.

9.3 B. IEP Review Following Suspension

An IEP meeting is not required prior to suspending a student with a disability up to 10 days. However, it is recommended that the IEP team should meet to review a pupil's placement and program when the pupil is experiencing serious discipline problems leading to multiple suspensions. It is required that the IEP team conduct an IEP manifestation determination review when a pupil's suspensions total 10 days. The IEP team must determine how the student will receive FAPE on the 11th and any subsequent days of suspension. The team will also determine if additional assessment is needed, if the misconduct was caused by, or had a direct and substantial relationship to the pupil's identified disability, and if the pupil is appropriately placed.

9.3 C. Alternatives to Suspension

A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section. (EC 48900 (v))

Whenever possible, teachers and administrators should implement interventions and consequences in response to a student's misbehavior that do not involve removing the student from his or her educational setting. Some suggestions for interventions prior to suspension include:

- Use of a classroom behavior management system that is positive, fair, consistent and understood.
- Redirection of the student back to task
- Discussion with the student
- Discussion with the parent
- Loss of privilege or points
- Implementation of Tier 2 positive behavior interventions
- Detention (after school) with time for the teacher and student to review alternative ways the student could respond and behave in the classroom that would be more appropriate.
- Referral of student to school psychologist
- Adjustment of the student's classes and schedule
- If the student has an IEP, request to hold an IEP team meeting to:
 - Describe the target (problem) behavior in observable and measurable terms on the IEP
 - Develop IEP goals (and objectives if appropriate) to address target behavior
 - Determine level of behavior intervention needed and document strategies (e.g. Positive Behavior Support Plan, Positive Behavior Intervention Plan)
 - Identify supports and resources necessary to implement behavior interventions

9.4 Expulsion

9.4 A. Mandatory Referral for Expulsion

The principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance: (EC 48915)

- (1) Causing serious physical injury to another person, except in self-defense.
- (2) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (4) Robbery or extortion.
- (5) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

A decision to expel shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds: (EC 48915 (c))

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions: (EC 48915 (d))

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary

school.

(3) *Is not housed at the school site attended by the pupil at the time of suspension.*

9.4 B. Expulsion of Students with Exceptional Needs

An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations. (EC 48915.5)

School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ~~10~~ 5 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ~~10~~ 5* consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536). (34CFR300.530)*

***While the Code of Federal Regulations allows up to 10 consecutive days, the California Education Code 48911 allows only 5 consecutive days.**

A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

9.4 C Readmission of an Expelled Student

When a pupil is expelled, the governing board typically outlines terms and conditions for readmission to the district. The pupil may apply for readmission and be considered for reinstatement by the governing board upon satisfactory completion of the terms and conditions in the rehabilitation assignment. *Upon reinstatement, the governing board may order the expungement of any or all records of the expulsion proceedings. (EC 48917 (e)).*

When a pupil has an expulsion suspended, the governing board typically reassigns the student to an educational setting wherein he/she can simultaneously work toward satisfactory completion of the terms and conditions in the rehabilitation plan. If a student on a suspended expulsion reoffends (violates the provisions of EC 48900) again during the time of the suspended expulsion, he/she is immediately expelled and the regular readmission criteria apply.

9.5 Manifestation Determination for Removal of Student with a Disability

9.5 A. Guidelines Regarding Removals

Below is a table consisting of various types of removals and whether or not a Manifestation Determination is required as a result of a change in placement.

| Type of Removal | Change in Placement? | Manifestation Determination Required? |
|--|----------------------|---------------------------------------|
| Short-term removal of <10 days | NO | NO |
| Short-term removals totaling >10 cumulative days and does NOT constitute a pattern | NO | NO |
| Series of short-term removals totaling >10 cumulative days AND constitutes a pattern | YES | YES |
| Long-term removals >10 consecutive days | YES | YES |

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9.5 B. Students Served in Nonpublic Schools or Regional Programs

Students with disabilities served in special day classes operated (a) by a certified nonpublic school or (b) by a regional provider such as the Los Angeles County Office of Education (LACOE) are subject to the same suspension and expulsion guidelines contained in this document and pertinent Board of Education policies of the student's district of residence.

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911. (EC 48911.5)

The nonpublic school shall be a written policy regarding suspension procedures, which includes a process for documenting actions that may lead to expulsion and a process for communicating with the district of residence. The nonpublic school shall provide the district of residence with copies of suspension, expulsion and behavior emergency reports within 24 hours of the disciplinary action.

9.6 Manifestation Determination Review

Manifestation Determination Reviews need to be conducted for students with a disability when a change of placement occurs because:

- A. *The student has 10 cumulative days of suspension AND the removal constitutes a change in placement – IEP team meets to determine if the*

offenses are related to the student's disability and to see if they need to make changes in supports, services and/or placement to address the needs of the student. (34 CFR300.530(d)(4))

B. The student is suspended pending expulsion (34CFR300.530 (d)(5))

Within 10 school days of any decision to change the placement of a child with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
- (2) if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP team determine that either of the above is applicable for the student, the conduct shall be determined to be a manifestation of the student's disability.

9.6 A. Determination that Behavior is a Manifestation

In determining that the behavior is a manifestation of the student's disability, the IEP team must:

- (1) Conduct a functional behavioral assessment and implement a behavioral intervention plan if LEA has not conducted such assessment.
- (2) In the situation where a behavioral intervention plan has been developed, review behavioral intervention plan and modify if necessary to address the behavior; and
- (3) Except under special circumstances, return the student to the previous placement unless the parent and the LEA agree to a change of placement.

9.6 B Determination that Behavior is NOT a Manifestation of the Disability

If the team determines that the behavior was **not** a manifestation of the disability:

- (1) Student must continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.

- (2) If appropriate, receive a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

A written report of the "review" is provided to the parent at the IEP meeting. The following SELPA forms must be utilized in conducting a Manifestation Determination Review.

- Notice of IEP Team Meeting
- Notice of Procedural Safeguards
- Manifestation Determination Analysis Summary Sheet
- IEP Amendment
- IEP Notes Page

NOTE: The Manifestation Determination Analysis Summary Sheet can be found in the SEIS Document Library. There is a hard copy of the form in Appendix C.

9.7 45-day Removal to Interim Alternative Educational Setting (IAES)

School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where a student:

- (1) Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of the LEA.
- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the LEA; or
- (3) Has inflicted **serious** bodily injury upon another person while at school, on school premises, or at school function under the jurisdiction of a State or LEA.

The IAES shall be determined by the IEP Team.

Definition of *Serious Bodily Injury*

Serious bodily injury means bodily injury which involves:

- (1) A substantial risk of death
- (2) Extreme physical pain
- (3) Protracted and obvious disfigurement; or

- (4) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18-U.S.C. 1365(h) (3))

9.7 A. Services during 45-Day Placement

A student who is removed from current placement to 45-day placement must:

- (1) Student must continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.
- (2) Receive, *as appropriate*, a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

NOTE: See Appendix D for information regarding the Southwest SELPA 45-day placement

9.8 Disciplinary Appeal Process

If the parent disagrees with any decision regarding placement or manifestation determination, they may request an expedited hearing. If the LEA believes that maintaining the current placement could substantially result in injury to the child or others, the LEA may request an expedited hearing.

9.9 Placement during Appeal Process

When an appeal has been requested by either the parent or the LEA: The student shall remain in the interim alternative educational setting (IAES) pending the decision of the administrative law judge (ALJ) until the expiration of the 45-day placement provided whichever occurs first, unless the State or LEA agree otherwise.

9.10 Expedited Hearing

The State or LEA shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

9.11 Authority of Administrative Law Judge (ALJ)

The ALJ shall hear, and make determination regarding an appeal request. In making the determination, the ALJ may order a change in placement of a student with a disability. In such situations, the ALJ may:

- (1) Return the student to the placement from which the he/she was removed;
- (2) Order a change in placement of the student to an appropriate interim alternative educational setting for not more than 45 days, if the current placement of the student is substantially likely to result in injury to self or others.

9.12 Protections for Children Not Yet Eligible for Special Education and Related Services

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided under IDEA if the LEA had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred.

9.12 A. Basis of Knowledge

A LEA shall be deemed to have knowledge that a child is a child with a disability if, before the behavior precipitated the disciplinary action occurred:

- (1) The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate LEA, or a teacher of the child, that the child is in need of special education and related services.
- (2) The parent of the child has requested an evaluation of the child.
- (3) The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

9.12 B. Exception

An LEA shall not have been deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services if the child has been evaluated and it was determined that the child was not a child with a disability.

9.12 C. Conditions that Apply if No Basis of Knowledge

- (1) If a LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to

disciplinary measures applied to children without disabilities, who engage in comparable behaviors.

- (2) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services. Pending the results, the child shall remain in the educational placement determined by school authorities.

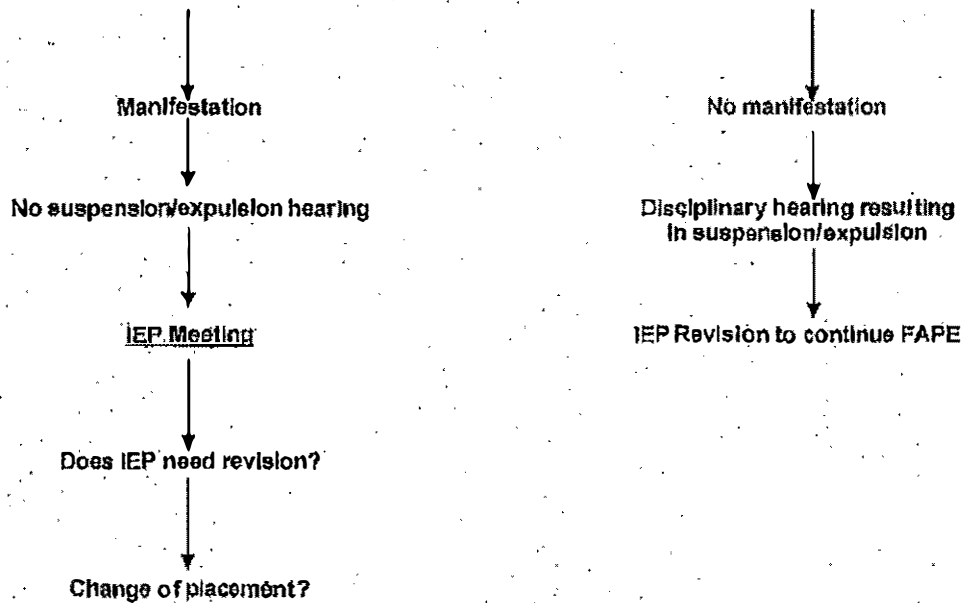


Disciplinary Steps

(More than 10 school days of removal from current placement in a school year when a change of placement occurs)

IEP Team Meeting

1. Functional behavioral assessment/review behavior plan
2. Provide parents notice of rights
3. Manifestation Issue







Fagen, Friedman & Fullrost LLP

SPECIAL EDUCATION REMOVALS FOR DISCIPLINARY PURPOSES

| Less Than 10 Days | More Than 10 Cumulative Days No Change In Placement | More Than 10 Cumulative Days Change In Placement | More Than 10 Consecutive Days |
|---|---|--|-------------------------------|
| <p>Disciplinary Action: Disabled student may be disciplined in the same manner as a non-disabled student. 34 C.F.R. § 300.530(c)</p> <p>Educational Services: School district need only provide educational services to a disabled student if the services are offered to non-disabled students. 34 C.F.R. § 300.530(d)</p> | <p>Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student.</p> <p>Educational Services: On the 11th day of removal, school personnel must consult with at least one of the student's teachers to determine the extent to which special education services must be provided to enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward meeting the goals delineated in the student's IEP. 34 C.F.R. § 300.530(e)</p> | <p>Disciplinary Action: If the behavior is not a manifestation of the student's disability, the student may be disciplined as a general education student. 20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c)</p> <p>If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavioral assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the determination before the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or the student is placed in an interim alternative educational setting. If student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f)</p> <p>Educational Services: On the 11th day of removal, the IEP team must decide on services to (1) enable the student to continue to participate in general education curriculum, (2) progress toward the IEP goals, and (3) receive a functional behavioral assessment, as appropriate, and behavioral intervention services and modifications. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. § 300.530(b)(2)</p> | |
| | <p>Determine Whether Removal Constitutes In Placement: School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415 (k)(1)(A); 34 C.F.R. §§ 300.530, 300.536</p> <p>Interim Alternative Educational Setting: School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student:</p> <ol style="list-style-type: none"> 1. carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function; 2. knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or 3. has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. <p>The IEP team must determine the interim alternative education setting. 20 U.S.C. §§ 1415 (k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g)</p> | | |
| | <p>Manifestation Determination: Within 10 days of the decision to change the student's placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was:</p> <ol style="list-style-type: none"> 1. caused by, or had a direct and substantial relationship to, the student's disability; or 2. the direct result of the school district's failure to implement the IEP. <p>The parents and the school district determine who qualifies as "relevant IEP team members." The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent. 20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)</p> | | |



STUDENT DISCIPLINE

Suspendable and Expellable Offenses

Students may be suspended or recommended for expulsion if the student has committed one of the following offenses:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force or violence upon the person of another, except in self-defense.
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object.
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school or private property.
- Stolen or attempted to steal school or private property.
- Possessed or used tobacco or any tobacco product.
- Committed an obscene act or habitual profanity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied valid authority.
- Knowingly received stolen school or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or committed sexual battery.
- Harassed, threatened, or intimidated a pupil witness in order to prevent testimony or to retaliate for giving testimony.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in, hazing.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, directed specifically toward a student or school personnel.
- Sexual harassment.
- Hate violence, if the student is in grades 4 through 12.
- Intentionally engaged in harassment, threats, or intimidation that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting, creating substantial disorder, or invading rights.
- Made terrorist threats against school officials or school property.

AUTHORITY: Ed. Code §§ 48900; 48900.2; 48900.3; 48900.4; 48900.7

Mandatory Recommendation for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either on school grounds or at an off-campus school-sponsored event:

- Possessing, selling or furnishing a firearm.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

AUTHORITY: Ed. Code § 48915(c).

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses unless it believes the expulsion is inappropriate due to the particular circumstance:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except the first offense of possession of less than one ounce of marijuana).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

AUTHORITY: Ed. Code § 48915(b).



***INSERT UPDATED MANIFESTATION
DETERMINATION FORM***



How to Access the 45-day Placement Option

- The psychologist gives the 45-day Placement teacher the referral and the name of the contact person to set up a meeting.
- The Team Intensive Placement Teacher sets up the meeting with the district of residence.
- The district of residence is responsible for notifying the parents and the student of the date and the time of the meeting.
- It is important that all parties are represented at the meeting
 - Parents
 - Student
 - District Representative
 - Team Intensive Placement Teacher
- At the placement meeting, the team along with the student discusses the following:
 - Reasons for the referral
 - Present levels of academic performance
 - Attendance history
 - Behavior issues
 - Anything relevant to the reasons for the referral.
- If the team agrees that the student is appropriate for the 45-day Team Intensive Placement, the student, the parent, district of residence representative sign a contract.

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SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)
LOS ANGELES COUNTY OFFICE OF EDUCATION (LACOE)
320 KNOB HILL AVENUE
REDONDO BEACH, CA. 90277
PH: 310.944.3217 FAX: 310.944.3540

**Team Intensive Placement
45-Day Classroom Placement Agreement**

Pupil: _____ DOB: _____

District: _____ Grade: _____

School: _____

District Psychologist: _____ Phone: _____

Email: _____

Case Manager: _____ Phone: _____

Email: _____

Date of Last IEP: _____ Disability: _____

Reason for Request:

District agrees to the following:

- Student will not have credits reduced due to the change of placement.
- District agrees to accept the grades and credits, including partial credits necessary to maintain placement at the previous school of attendance.
- District agrees to provide LACOE with the current class schedule and present levels of performance of student.

LACOE agrees to the following:

- LACOE will address the student's required classes, based on the pupil's home school class schedule. Content standards will be addressed via special projects, on-line learning, group learning and/or independent studies.
- LACOE will communicate grades and credits directly to the school special education administrator and or special education Case Manager.
- Team Intensive Placement is for 45 calendar days only. The district in collaboration with the LACOE Team is responsible to determine placement beyond the 45th day including the possibility of a referral to a LACOE or other special education setting (NPS/NPA, District setting).

Start Date: _____

End Date: _____

District Representative Signature

Print Name

LACOE Signature

Print Name





SECTION 9

SUSPENSION AND EXPULSION/
DUE PROCESS



SUSPENSION AND EXPULSION/DUE PROCESS

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SUSPENSION AND EXPULSION DUE PROCESS

9.1 Discipline

A student identified as an individual with disabilities pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

A student with a disability can be expelled for violation of school conduct codes only when certain procedural safeguards are followed.

If an action is contemplated regarding behavior resulting in consideration for expulsion or involving a removal that constitutes a change of placement, the parents must be notified of that decision no later than the date on which the decision to take that action is made.

Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, the IEP team must meet to review the relationship between the child's disability and the behavior subject to the disciplinary action. (27 EC 48915.5)

NOTE: See Appendix A for Disciplinary Steps Flow Chart and Appendix B for Special Education Removals for Disciplinary Purposes (Fagen, Friedman & Fulfrost LLP)

9.2 Suspensions

9.2 A. Education Code Violations

The California Education Code Section 48900 states that a student shall not be suspended from school or recommended for expulsion unless the superintendent or principal of the school in which the student is enrolled determines that the student has committed an act defined below:

- (a) (1) *Caused, attempted to cause, or threatened to cause physical injury to another person.*
- (2) *Willfully used force or violence upon the person of another, except in self-defense.*
- (b) *Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.*
- (c) *Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a*

controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one

or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) "Electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

In addition to the reasons specified in Section 48900, a student may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has:

- *Committed sexual harassment as defined in Section 212.5. For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to students enrolled in kindergarten and grades 1 to 3, inclusive. (EC 48900.2)*
- *Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233. (Applies to a student in any grades 4 to 12, inclusive) (EC 48900.3)*
- *Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. (Applies to a student in any of grades 4 to 12, inclusive) (EC 48900.4)*
- *Made terroristic threats against school officials or school property, or both. For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (EC 48900.7)*

9.2 B. Suspension Related to School Activity

A pupil may not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following: (EC 48900(s))

- (1) *While on school grounds*
- (2) *While going to or coming from school*
- (3) *During the lunch period whether on or off the campus*

(4) During, or while going to or coming from, a school sponsored activity

A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section. (EC 48900 (v)) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any student who is truant, tardy, or otherwise absent from school activities. (EC 48900 (w))

If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program. (EC 48915.5 (c))

9.2 C. Total Number of Days of Suspension

The total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year. (EC 48903)

The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated above in Section 48900, for no more than five consecutive school days. (EC 48911)

Suspension by the principal, the principal's designee, or the superintendent of schools shall be preceded by an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

A principal, the principal's designee, or the superintendent of school may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school

personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

9.2 D. Notification to Parents

At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. A school employee shall report the suspension of the pupil, including the cause therefore, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior. No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference. (EC 48911)

9.3 Suspension of Students with Exceptional Needs

Suspension of students with exceptional needs requires that the school administrators and IEP team members understand the limits of suspension of students with disabilities, requirements for IEP review following suspension, and alternatives to suspension.

9.3 A. Limits of Suspension of Students with Disabilities

As noted previously, the principal, principal's designee or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900. An individual with exceptional needs may be suspended for up to, but not more than five consecutive school days. The student may be suspended for up to 10 days before an IEP team manifestation determination meeting is required. The student can be removed for more than 10 days for separate acts of misconduct, as long as the removals do not constitute a pattern. During any removal of more than ten days the school must provide services to the extent determined necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals on his or her IEP.

9.3 B. IEP Review Following Suspension

An IEP meeting is not required prior to suspending a student with a disability up to 10 days. However, it is recommended that the IEP team should meet to review a pupil's placement and program when the pupil is experiencing serious discipline problems leading to multiple suspensions. It is required that the IEP team conduct an IEP manifestation determination review when a pupil's suspensions total 10 days. The IEP team must determine how the student will receive FAPE on the 11th and any subsequent days of suspension. The team will also determine if additional assessment is needed, if the misconduct was caused by, or had a direct and substantial relationship to the pupil's identified disability, and if the pupil is appropriately placed.

9.3 C. Alternatives to Suspension

A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section. (EC 48900 (v))

Whenever possible, teachers and administrators should implement interventions and consequences in response to a student's misbehavior that do not involve removing the student from his or her educational setting. Some suggestions for interventions prior to suspension include:

- Use of a classroom behavior management system that is positive, fair, consistent and understood.
- Redirection of the student back to task
- Discussion with the student
- Discussion with the parent
- Loss of privilege or points
- Implementation of Tier 2 positive behavior interventions
- Detention (after school) with time for the teacher and student to review alternative ways the student could respond and behave in the classroom that would be more appropriate.
- Referral of student to school psychologist
- Adjustment of the student's classes and schedule
- If the student has an IEP, request to hold an IEP team meeting to:
 - Describe the target (problem) behavior in observable and measurable terms on the IEP
 - Develop IEP goals (and objectives if appropriate) to address target behavior
 - Determine level of behavior intervention needed and document strategies (e.g. Positive Behavior Support Plan, Positive Behavior Intervention Plan)
 - Identify supports and resources necessary to implement behavior interventions

9.4 Expulsion

9.4 A. Mandatory Referral for Expulsion

The principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance: (EC 48915)

- (1) Causing serious physical injury to another person, except in self-defense.
- (2) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (4) Robbery or extortion.
- (5) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

A decision to expel shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds: (EC 48915 (c))

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions: (EC 48915 (d))

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary

school.

(3) *Is not housed at the school site attended by the pupil at the time of suspension.*

9.4 B. Expulsion of Students with Exceptional Needs

An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations. (EC 48915.5)

School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ~~10~~ 5 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ~~10~~ 5* consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536). (34CFR300.530)*

*While the Code of Federal Regulations allows up to 10 consecutive days, the California Education Code 48911 allows only 5 consecutive days.

A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

9.4 C Readmission of an Expelled Student

When a pupil is expelled, the governing board typically outlines terms and conditions for readmission to the district. The pupil may apply for readmission and be considered for reinstatement by the governing board upon satisfactory completion of the terms and conditions in the rehabilitation assignment. *Upon reinstatement, the governing board may order the expungement of any or all records of the expulsion proceedings. (EC 48917 (e)).*

When a pupil has an expulsion suspended, the governing board typically reassigns the student to an educational setting wherein he/she can simultaneously work toward satisfactory completion of the terms and conditions in the rehabilitation plan. If a student on a suspended expulsion reoffends (violates the provisions of EC 48900) again during the time of the suspended expulsion, he/she is immediately expelled and the regular readmission criteria apply.

9.5 Manifestation Determination for Removal of Student with a Disability

9.5 A. Guidelines Regarding Removals

Below is a table consisting of various types of removals and whether or not a Manifestation Determination is required as a result of a change in placement.

| Type of Removal | Change in Placement? | Manifestation Determination Required? |
|--|----------------------|---------------------------------------|
| Short-term removal of <10 days | NO | NO |
| Short-term removals totaling >10 cumulative days and does NOT constitute a pattern | NO | NO |
| Series of short-term removals totaling >10 cumulative days AND constitutes a pattern | YES | YES |
| Long-term removals >10 consecutive days | YES | YES |

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9.5 B. Students Served in Nonpublic Schools or Regional Programs

Students with disabilities served in special day classes operated (a) by a certified nonpublic school or (b) by a regional provider such as the Los Angeles County Office of Education (LACOE) are subject to the same suspension and expulsion guidelines contained in this document and pertinent Board of Education policies of the student's district of residence.

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911. (EC 48911.5)

The nonpublic school shall be a written policy regarding suspension procedures, which includes a process for documenting actions that may lead to expulsion and a process for communicating with the district of residence. The nonpublic school shall provide the district of residence with copies of suspension, expulsion and behavior emergency reports within 24 hours of the disciplinary action.

9.6 Manifestation Determination Review

Manifestation Determination Reviews need to be conducted for students with a disability when a change of placement occurs because:

- A. *The student has 10 cumulative days of suspension AND the removal constitutes a change in placement – IEP team meets to determine if the*

offenses are related to the student's disability and to see if they need to make changes in supports, services and/or placement to address the needs of the student. (34 CFR300.530(d)(4))

B. The student is suspended pending expulsion (34CFR300.530 (d)(5))

Within 10 school days of any decision to change the placement of a child with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
- (2) if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP team determine that either of the above is applicable for the student, the conduct shall be determined to be a manifestation of the student's disability.

9.6 A. Determination that Behavior is a Manifestation

In determining that the behavior is a manifestation of the student's disability, the IEP team must:

- (1) Conduct a functional behavioral assessment and implement a behavioral intervention plan if LEA has not conducted such assessment.
- (2) In the situation where a behavioral intervention plan has been developed, review behavioral intervention plan and modify if necessary to address the behavior; and
- (3) Except under special circumstances, return the student to the previous placement unless the parent and the LEA agree to a change of placement.

9.6 B Determination that Behavior is NOT a Manifestation of the Disability

If the team determines that the behavior was **not** a manifestation of the disability:

- (1) Student must continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.

- (2) If appropriate, receive a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

A written report of the "review" is provided to the parent at the IEP meeting. The following SELPA forms must be utilized in conducting a Manifestation Determination Review.

- Notice of IEP Team Meeting
- Notice of Procedural Safeguards
- Manifestation Determination Analysis Summary Sheet
- IEP Amendment
- IEP Notes Page

NOTE: The Manifestation Determination Analysis Summary Sheet can be found in the SEIS Document Library. There is a hard copy of the form in Appendix C.

9.7 45-day Removal to Interim Alternative Educational Setting (IAES)

School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, in cases where a student:

- (1) Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of the LEA.
- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the LEA; or
- (3) Has inflicted **serious** bodily injury upon another person while at school, on school premises, or at school function under the jurisdiction of a State or LEA.

The IAES shall be determined by the IEP Team.

Definition of *Serious Bodily Injury*

Serious bodily injury means bodily injury which involves:

- (1) A substantial risk of death
- (2) Extreme physical pain
- (3) Protracted and obvious disfigurement; or

- (4) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18-U.S.C. 1365(h) (3))

9.7 A. Services during 45-Day Placement

A student who is removed from current placement to 45-day placement must:

- (1) Student must continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.
- (2) Receive, *as appropriate*, a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

NOTE: See Appendix D for information regarding the Southwest SELPA 45-day placement

9.8 Disciplinary Appeal Process

If the parent disagrees with any decision regarding placement or manifestation determination, they may request an expedited hearing. If the LEA believes that maintaining the current placement could substantially result in injury to the child or others, the LEA may request an expedited hearing.

9.9 Placement during Appeal Process

When an appeal has been requested by either the parent or the LEA: The student shall remain in the interim alternative educational setting (IAES) pending the decision of the administrative law judge (ALJ) until the expiration of the 45-day placement provided whichever occurs first, unless the State or LEA agree otherwise.

9.10 Expedited Hearing

The State or LEA shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

9.11 Authority of Administrative Law Judge (ALJ)

The ALJ shall hear, and make determination regarding an appeal request. In making the determination, the ALJ may order a change in placement of a student with a disability. In such situations, the ALJ may:

- (1) Return the student to the placement from which the he/she was removed;
- (2) Order a change in placement of the student to an appropriate interim alternative educational setting for not more than 45 days, if the current placement of the student is substantially likely to result in injury to self or others.

9.12 Protections for Children Not Yet Eligible for Special Education and Related Services

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided under IDEA if the LEA had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred.

9.12 A. Basis of Knowledge

A LEA shall be deemed to have knowledge that a child is a child with a disability if, before the behavior precipitated the disciplinary action occurred:

- (1) The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate LEA, or a teacher of the child, that the child is in need of special education and related services.
- (2) The parent of the child has requested an evaluation of the child.
- (3) The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

9.12 B. Exception

An LEA shall not have been deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services if the child has been evaluated and it was determined that the child was not a child with a disability.

9.12 C. Conditions that Apply if No Basis of Knowledge

- (1) If a LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to

disciplinary measures applied to children without disabilities, who engage in comparable behaviors.

- (2) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services. Pending the results, the child shall remain in the educational placement determined by school authorities.

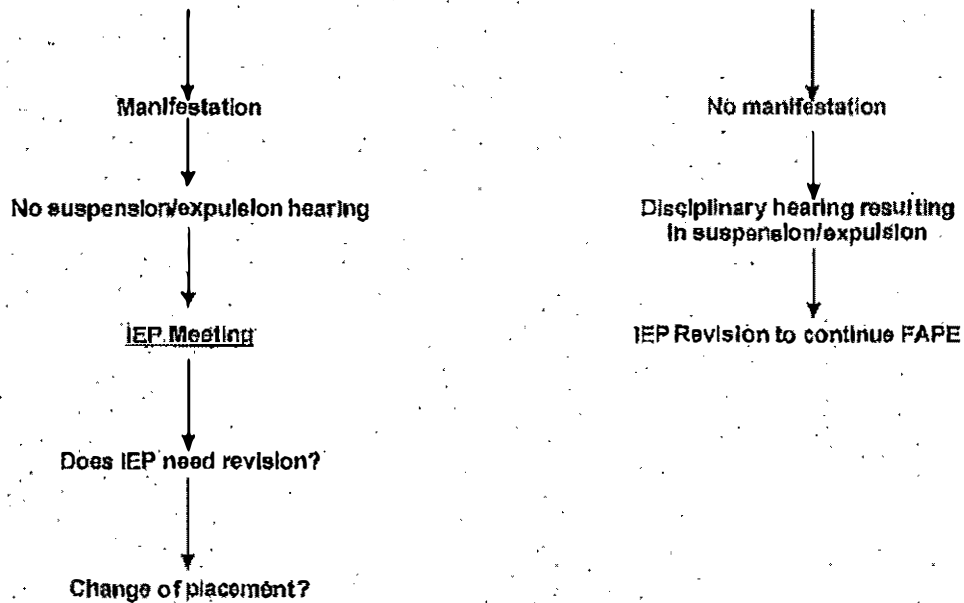


Disciplinary Steps

(More than 10 school days of removal from current placement in a school year when a change of placement occurs)

IEP Team Meeting

1. Functional behavioral assessment/review behavior plan
2. Provide parents notice of rights
3. Manifestation Issue







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SPECIAL EDUCATION REMOVALS FOR DISCIPLINARY PURPOSES

| Less Than 10 Days | More Than 10 Cumulative Days No Change In Placement | More Than 10 Cumulative Days Change In Placement | More Than 10 Consecutive Days |
|---|--|--|-------------------------------|
| <p>Disciplinary Action: Disabled student may be disciplined in the same manner as a non-disabled student. 34 C.F.R. § 300.530(c)</p> <p>Educational Services: School district need only provide educational services to a disabled student if the services are offered to non-disabled students. 34 C.F.R. § 300.530(d)</p> | <p>Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student.</p> <p>Educational Services: On the 11th day of removal, school personnel must consult with at least one of the student's teachers to determine the extent to which special education services must be provided to enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward meeting the goals delineated in the student's IEP. 34 C.F.R. § 300.530(b)(4)</p> | <p>Disciplinary Action: If the behavior is not a manifestation of the student's disability, the student may be disciplined as a general education student. 20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c)</p> <p>If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavioral assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the determination before the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or the student is placed in an interim alternative educational setting. If student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f)</p> <p>Educational Services: On the 11th day of removal, the IEP team must decide on services to (1) enable the student to continue to participate in general education curriculum, (2) progress toward the IEP goals, and (3) receive a functional behavioral assessment, as appropriate, and behavioral intervention services and modifications. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. § 300.530(b)(2)</p> | |
| | <p>Determine Whether Removal Constitutes In Placement: School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415(k)(1)(A); 34 C.F.R. §§ 300.530, 300.536</p> | | |
| | <p>Interim Alternative Educational Setting: School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student:</p> <ol style="list-style-type: none"> 1. carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function; 2. knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or 3. has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. <p>The IEP team must determine the interim alternative education setting. 20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g)</p> | | |
| | <p>Manifestation Determination: Within 10 days of the decision to change the student's placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was:</p> <ol style="list-style-type: none"> 1. caused by, or had a direct and substantial relationship to, the student's disability; or 2. the direct result of the school district's failure to implement the IEP. <p>The parents and the school district determine who qualifies as "relevant IEP team members." The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent. 20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)</p> | | |



STUDENT DISCIPLINE

Suspendable and Expellable Offenses

Students may be suspended or recommended for expulsion if the student has committed one of the following offenses:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force or violence upon the person of another, except in self-defense.
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object.
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school or private property.
- Stolen or attempted to steal school or private property.
- Possessed or used tobacco or any tobacco product.
- Committed an obscene act or habitual profanity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied valid authority.
- Knowingly received stolen school or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or committed sexual battery.
- Harassed, threatened, or intimidated a pupil witness in order to prevent testimony or to retaliate for giving testimony.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in, hazing.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, directed specifically toward a student or school personnel.
- Sexual harassment.
- Hate violence, if the student is in grades 4 through 12.
- Intentionally engaged in harassment, threats, or intimidation that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting, creating substantial disorder, or invading rights.
- Made terrorist threats against school officials or school property.

AUTHORITY: Ed. Code §§ 48900; 48900.2; 48900.3; 48900.4; 48900.7

Mandatory Recommendation for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either on school grounds or at an off-campus school-sponsored event:

- Possessing, selling or furnishing a firearm.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

AUTHORITY: Ed. Code § 48915(c).

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses unless it believes the expulsion is inappropriate due to the particular circumstance:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except the first offense of possession of less than one ounce of marijuana).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

AUTHORITY: Ed. Code § 48915(b).



***INSERT UPDATED MANIFESTATION
DETERMINATION FORM***



How to Access the 45-day Placement Option

- The psychologist gives the 45-day Placement teacher the referral and the name of the contact person to set up a meeting.
- The Team Intensive Placement Teacher sets up the meeting with the district of residence.
- The district of residence is responsible for notifying the parents and the student of the date and the time of the meeting.
- It is important that all parties are represented at the meeting
 - Parents
 - Student
 - District Representative
 - Team Intensive Placement Teacher
- At the placement meeting, the team along with the student discusses the following:
 - Reasons for the referral
 - Present levels of academic performance
 - Attendance history
 - Behavior issues
 - Anything relevant to the reasons for the referral.
- If the team agrees that the student is appropriate for the 45-day Team Intensive Placement, the student, the parent, district of residence representative sign a contract.

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SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)
LOS ANGELES COUNTY OFFICE OF EDUCATION (LACOE)
320 KNOB HILL AVENUE
REDONDO BEACH, CA. 90277
PH: 310.944.3217 FAX: 310.944.3540

**Team Intensive Placement
45-Day Classroom Placement Agreement**

Pupil: _____ DOB: _____

District: _____ Grade: _____

School: _____

District Psychologist: _____ Phone: _____

Email: _____

Case Manager: _____ Phone: _____

Email: _____

Date of Last IEP: _____ Disability: _____

Reason for Request:

District agrees to the following:

- Student will not have credits reduced due to the change of placement.
- District agrees to accept the grades and credits, including partial credits necessary to maintain placement at the previous school of attendance.
- District agrees to provide LACOE with the current class schedule and present levels of performance of student.

LACOE agrees to the following:

- LACOE will address the student's required classes, based on the pupil's home school class schedule. Content standards will be addressed via special projects, on-line learning, group learning and/or independent studies.
- LACOE will communicate grades and credits directly to the school special education administrator and or special education Case Manager.
- Team Intensive Placement is for 45 calendar days only. The district in collaboration with the LACOE Team is responsible to determine placement beyond the 45th day including the possibility of a referral to a LACOE or other special education setting (NPS/NPA, District setting).

Start Date: _____

End Date: _____

District Representative Signature

Print Name

LACOE Signature

Print Name





SECTION 10

PUPIL RECORDS



PUPIL RECORDS

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PUPIL RECORDS

10.1 INTRODUCTION

Local Educational Agencies (LEAs) must establish policies and procedures that ensure the protection of parents' rights related to confidentiality of pupil records. Policies and procedures must be consistent with State and federal laws and regulations, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and corresponding California statutes and regulations, including sections 49060, et seq., of the California Education Code and sections 430, et seq., of Title 5 of the California Code of Regulations. Procedures should describe the required notice to parents, right to access pupil records, record keeping procedures, retention and destruction of pupil records, and requests for amendment of pupil records.

10.2 PARENT RIGHT TO ACCESS PUPIL RECORDS

Unless the disclosure of a particular category of pupil records is specifically exempted by statute, parents have the right to inspect and review all pupil records that relate to their child, including those that address the identification, assessment, and educational placement of the child and the provision of a free, appropriate public education, which are collected, maintained, or used by agency.

Each LEA shall permit parents access to records without unnecessary delay and, in no event, more than five (5) days after the request has been made either orally or in writing. This includes access to and confidentiality of public records including LEAs educating pupils with disabilities in State hospitals, developmental centers, and youth and adult facilities. The LEA may not charge a fee for retrieval of information. The agency may, however, charge a fee for copies of records, which are made for parents, if the fee reflects the actual cost of reproducing the records and does not prevent the parents from exercising their right to inspect and review these records. In order for the fee to be waived for the actual costs of copying the records, the LEA may require evidence to substantiate waiver of such a fee.

Definition of Access:

Access means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record, or receipt of a copy of a record.

10.3 NOTICE TO PARENTS

Parents must be notified, in writing, of their rights to inspect and review the school records of their children. This must be done at the time of initial enrollment and

annually thereafter. To the extent practicable, this notice should be in the home language of the pupil and should include information on policies, procedures, and rights related to record keeping including the Family Educational Rights and Privacy Act of 1974 (FERPA). The notice will contain the following specific information:

- The types of records and information contained therein.
- The position of the official responsible for the maintenance of each type of record.
- The location of the log or record required to be maintained.
- Criteria used by the district to define "school officials and employees" and in determining "legitimate educational interest."
- The policies of the district for reviewing and expunging records.
- The right of the parent to access pupil records.
- The procedures for challenging the content of pupil records.
- The cost, if any, charged to the parent for reproducing copies of records.
- The categories of information which the institution has designated as directory information.
- Any other rights stated in the California Education Code and the right to file a complaint with Department of Health, Education and Welfare (FERPA).
- Notice of all locations where copies of the policies and procedures regarding the General Education Provisions Act and confidential pupil records may be obtained.

The right to inspect and review also includes responses to reasonable requests for explanations and interpretations of the records and the right to have a representative of the parent inspect and review the records. (See provision regarding written parental releases.) (EC 49061, 49063)

10.4 SAFEGUARDS

LEAs must protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

Each LEA must maintain for public inspection a current list of names and positions of those employees who have access to personally identifiable information.

10.5 CONSENT TO RELEASE STUDENT RECORDS

- 1) Written consent must specify the records to be released, identify the party or class of parties to whom records may be released, state the purpose(s) of the disclosure and be signed and dated by the parent or eligible student.

NOTE: Refer to your school district's special education department for the *Release of Information Form*

- 2) The recipient of the records must be notified that the transmission of information to others without the written consent of the parent is prohibited; however, information may be shared with other persons within the educational institution obtaining access, as long as such persons have a legitimate interest in the information. Each LEA has the right to share information internally among its employees and contractors having a reasonable need for the information.
- 3) Whenever a pupil reaches the age of 18 years or is attending an institution of post-secondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil. (EC 49061, 49073, 49076)

10.6 LOG OF REQUESTS FOR INFORMATION

All requests of individuals or agencies with the exceptions of "other school officials" above and parents, must be recorded in a record or log of requests for information, except for directory information recipients. The log or record must be open to the inspection by a parent and the school officials or his designee responsible for the maintenance of pupil records and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education and Welfare and administrative head of an educational agency as defined in PL 93-380, and state educational authorities as a means of auditing the operation of the system.

The log or record must contain the following information: the name of the requesting party and the legitimate interest of the party. The log should be kept with the student's educational records.

10.7 AMENDMENT OF RECORDS

If parents desire to challenge the content of pupil records, they must establish that one of the specific grounds set forth in the Education Code exists and provide a written request to correct or remove the information to the superintendent. If the superintendent declines to amend the pupil record in question, the parents may appeal this decision to the LEA's governing board.

Grounds for amendment include:

- Inaccurate information.
- Information is unsubstantiated personal conclusion or inference.
- Information is a conclusion or inference outside the observer's area of competence.
- Information is not based on personal observation
- Misleading information.
- Information in violation of the privacy or other right of the pupil.

(EC 49070)

10.8 RETENTION AND DESTRUCTION OF PUPIL RECORDS

No pupil records may be destroyed except pursuant to established District rules and regulations which must comply with the procedure for destruction of records contained in California Code of Regulations, Title 5, sections 16020 and following, or as provided in Education Code sections 49070 (b) and (c) relating to the destruction of records that have been successfully challenged as inaccurate or unsubstantiated.

Prior to destruction of special education records for students with disabilities, the LEA must first contact, or attempt to contact, the parent/guardian, to inform them that the records are no longer needed and will be destroyed, unless the parent wants to keep them. (CFR 300.573) Otherwise the LEA may proceed with destruction.

An agency may not destroy any educational record if there is an outstanding request to inspect or review them. Logs or records of access must be maintained as long as the educational record to which it pertains is maintained.

As documents are received by the records custodian at each site, he or she shall initial them to indicate the type of records involved. There are three types of records: mandatory permanent (MP), mandatory interim (MI), and permitted (P).

After records are classified, they must then be classified for destruction according to the timelines contained in Title 5.

10.8 A. Mandatory Permanent Records include:

- Legal name of pupil
- Date of birth
- Method of verification of date of birth
- Sex of pupil
- Place of birth
- Name and address of a parent of a minor pupil
- Address of minor pupil if different
- An annual verification of the name and address of the parent and residence of the pupil
- Entering and leaving date for each school year and for any summer session or other extra session
- Subjects taken during each year, half-year, summer session or quarter
- If marks or credits are given, the marks or number of credits toward graduation allowed for work taken
- Verification of, or exemption from, required immunizations
- Date of high school graduation or equivalent
- Evidence of pupil's disability and participation in special education program, if applicable

These mandatory permanent records must be forwarded to a requesting school, but the original or copy must be retained permanently.

Mandatory Permanent Records that have been in inactive status for five years shall be microfilmed. (5CCR §§ 430, 432)

10.8 B. Mandatory Interim Records are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. These records must be forwarded to all California schools and may be forwarded to other schools. Such records include:

- Access log
- Health records
- Participation in special education programs including required tests, case studies, authorizations and actions necessary to establish eligibility or discharge
- Language training records
- Progress slips and/or notices as required by Education Code Sections 49066 and 4906
- Parental restrictions regarding access to directory information or related stipulations

- Parent rejoinders to challenged records and to disciplinary action
- Parental authorizations or prohibitions of pupil participation in specific programs
- Results of standardized tests administered within the preceding three years (5CCR §§ 430, 432)

10.8 C. Permitted Records include:

- Objective counselor and/or teacher ratings
- Standardized test results older than three years
- Verified reports of relevant behavioral patterns
- All disciplinary notices
- Attendance records not covered in the California Code of Regulation, Title 5 section 400 (records related to ADA or to compulsory education) (5CCR §§ 430, 432)

10.8 D. Destruction Procedures**Destruction of Permitted Records**

Permitted pupil records may be destroyed when their usefulness ceases. Notwithstanding the foregoing, special education-related permitted records should ordinarily be retained by an LEA for at least two years after the student ceases to be enrolled in the LEA and may be destroyed thereafter. (5CCR § 437)

Destruction of Mandatory Interim Records

Unless forwarded to another district, mandatory interim pupil records should be retained for at least two years after the student leaves the district or when their usefulness ceases. Destruction shall occur during the third school year following such classification. (5CCR § 437)

10.9 CONFIDENTIALITY OF PUPIL RECORDS

All individually identifiable information is confidential and covered by the rules of access. Essentially all information about the pupil is confidential and access is limited to those school employees with an "educational need to know" and the parent (or student over 18 years of age). Only the parent (or student over 18) may authorize the release of any information.



SECTION 11

REFERRAL PROCEDURES FOR
LOS ANGELES COUNTY OFFICE OF
EDUCATION, SPECIAL EDUCATION
PROGRAMS



**LOS ANGELES COUNTY OFFICE
OF EDUCATION
(LACOE)**

***PROGRAM GUIDE FOR DISTRICT
ADMINISTRATORS***

- **CONTINUUM OF OPTIONS**
- **SOUTHWEST SELPA PAU's**
- **REFERRAL CONTACT
INFORMATION**
- **DIS SERVICES**

2011-2012

LOS ANGELES COUNTY OFFICE OF EDUCATION

Southwest SELPA

Program Guide

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Imperial PAU

| Administration | Location/Phone | Referral Contact |
|--|--|--|
| <p><i>Dr. Marsha Schultz</i> Principal</p> <p><i>Marian Chiaru</i> Assistant Principal</p> <p><i>Lucy Madden</i> Assistant Principal</p> <p><i>Denise Nunley</i> Assistant Principal</p> | <p style="text-align: center;">Imperial School 12495 Isis Avenue Hawthorne, CA 90250 (310) 536-9112 (Phone) (310) 536-7118 (Fax)</p> | <p style="text-align: center;"><u>Psychologists</u> <i>Marianne Bjorkland</i> <i>Gail Gordon</i> <i>Dianne Haskins</i> <i>Patty Lopez</i> <i>Ruth Ortega</i> <i>Diane Perry</i> <i>Le Cam To</i></p> |

Larson West PAU

| Administration | Location | Referral Contact |
|--|---|---|
| <p><i>Joe Godfrey</i> Principal</p> <p><i>Lucy Madden</i> Assistant Principal</p> | <p style="text-align: center;">4450 W. 182nd Street Redondo Beach, CA 90278 (310) 921-3570 (Phone) (310) 921-3571 (Fax)</p> | <p style="text-align: center;"><u>Psychologist</u> <i>Angelica Contreras</i> <i>Linh Daniels</i> <i>Lynissa Schaefer</i> <i>Le Cam To</i> <i>Tasha Trieu</i> <i>Cynthia Vergara</i> <i>Robert Wasserman</i></p> |
| <p style="text-align: center;"><u>Malaga Cove</u> <i>Vernon Wright</i> Assistant Principal</p> | <p style="text-align: center;"><u>Malaga Cove</u> 300 Paseo Del Mar Rancho Palos Verdes, CA (310) 373-2281 (Phone) (310) 536-7118 (Fax)</p> | |
| <p style="text-align: center;"><u>Prairie Vista</u> <i>Samuel Coleman</i></p> | <p style="text-align: center;"><u>Prairie Vista</u> 13928 Kornblum Hawthorne, CA 90250 (310) 970-7550 X 202</p> | |

Early Start/Early Intervention/ Preschool Programs

| Administrator | Location | Referral Contact |
|--|--|---|
| <p><i>Jennifer Fisher</i> Southwest SELPA Program Specialist</p> | <p style="text-align: center;">Southwest SELPA 320 Knob Hill, Building 1/2 Redondo Beach, CA 90277</p> | <p style="text-align: center;"><i>Jennifer Fisher</i> (310) 944-3217 x 247 (310) 944-3540 (Fax)</p> |

SLP

| Administrator | Location | Referral Contact |
|---|--|--|
| <p><i>Beth Lippes-Inabinet</i> LACOE Coordinator II</p> | <p style="text-align: center;">Southwest SELPA 320 Knob Hill, Building 1/2 Redondo Beach, CA 90277</p> | <p style="text-align: center;"><i>Beth Lippes-Inabinet</i> (310) 944-3217 x 223 (310) 944-3540 (Fax)</p> |

Crisis Prevention

| Administrator | Location | Referral Contact |
|---|--|--|
| <p><i>Mark Scott</i> LACOE Training Coordinator</p> | <p style="text-align: center;">Southwest SELPA 320 Knob Hill, Building 3/4 Redondo Beach, CA 90277</p> | <p style="text-align: center;"><i>Mark Scott</i> (310) 944-3217 x 228 (310) 944-3540 (Fax)</p> |

Alternative Dispute

| Administrator | Location | Referral Contact |
|-------------------------------------|---|--|
| <i>Marc Purchin Coordinator</i> | Southwest SELPA 320 Knob Hill, Office 3/4 Redondo Beach, CA 90277 | <i>Marc Purchin (310) 944-3217 x 229</i> |

Regional Administration

| Name/Title | Location | Referral Contact |
|--|---|--|
| <i>Abigail Cabrera LACOE Regional Director</i> | LACOE 12830 Columbus Way, Rm 217 Downey, CA 90242 | <i>(562) 803-8342</i> |
| <i>Jan Levinrad LACOE Senior Program Specialist</i> | Southwest SELPA 320 Knob Hill, Office 3/4 Redondo Beach, CA 90277 | <i>(626) 781-0412 (Cell) (310) 944-3217 x 227 (310)-944-3540 (Fax)</i> |
| <i>Mary Ring Southwest SELPA Director</i> | Southwest SELPA Office 320 Knob Hill, Redondo Beach, CA 90277 | <i>(310) 944-3217 (310) 944-3540 (fax)</i> |
| <i>Deena Sharp Southwest SELPA Charter School Coordinator</i> | Southwest SELPA 320 Knob Hill, Office 3/4 Redondo Beach, CA 90277 | <i>(626) 255-6374 (Cell) (310) 944-3217 x 226 (310) 944-3540 (Fax)</i> |
| <i>Christy Cole Parent Support Coordinator</i> | Southwest SELPA Family Resource Center 320 Knob Hill Redondo Beach, CA 90277 | <i>(310) 944-3217 x 248 (310) 944-3540 (Fax)</i> |
| <i>Peter Johnson Data Management Specialist</i> | Southwest SELPA 320 Knob Hill, Office 1 Redondo Beach, CA 90277 | <i>(310) 944-3217 x 234 (310) 944-3540 (Fax)</i> |
| <i>Roshelle Chavez Southwest SELPA Program Specialist</i> | Southwest SELPA 320 Knob Hill, Redondo Beach, CA 90277 | <i>(310) 944-3217 x 290 (310) 944-3540</i> |
| <i>Liz Leandres Program Specialist/ BCBA Supervisor</i> | Southwest SELPA 320 Knob Hill, Office ¾ Redondo Beach, CA 90277 | <i>(310) 944-3217 x 231 (310) 944-3540</i> |
| <i>Kerri Teague Jason Checca Consultants- Intervention4Success</i> | Southwest SELPA 320 Knob Hill, Office 1 Redondo Beach, CA 90277 | <i>(310) 944-3217 x 235 (310) 944-3540</i> |

SERVICES TO PUPILS WITH A DIAGNOSIS OF:

AUTISM SPECTRUM DISORDERS

ALL CLASSES ARE PART OF THE *IMPERIAL PAU*

| GRADE LEVEL | SCHOOL / DISTRICT |
|-------------------------------|--|
| K-1 | Howard Wood/ Torrance (1 SDC) |
| Grades 1-3 | Mark Twain / Lawndale (3 SDC) |
| Lower/Upper Elementary | Ramona School/Hawthorne (2 SDC) |
| Middle School | Lennox Middle School/Lennox (1 SDC) |
| Middle School | Richardson/Torrance (1 SDC) |
| High School | Hawthorne High School/Hawthorne (2 SDC) North High/Torrance (2 SDC) |
| Transition | Hawthorne High School/Hawthorne (1 SDC) |
| Transition | Larch Education Center/Centinella Valley (3 SDC) |
| Transition | Hamilton Adult School/Torrance (2 SDC) |

Contact Imperial PAU at 310.536.9112

SERVICES TO PUPILS WITH A DIAGNOSIS OF:

BLINDNESS / VISUALLY IMPAIRED

**ALL CLASSES ARE PART OF THE LARSON WEST PAU
(Infants and Preschool are also SELPA Programs)**

RESOURCE ROOMS

| GRADE LEVEL | SCHOOL / DISTRICT |
|----------------------------|---|
| Elementary | Carr School / Torrance (1 SDC) |
| Middle School | Casimir / Torrance (1 SDC) |
| High School | North High / Torrance (1 SDC) |
| Infants / Preschool | Assigned to available staff for home/school programs Infants: Jennifer Fisher Southwest SELPA (310) 944-3217 x 247 (phone) |

ITINERANT VI SERVICES: 10 positions

ORIENTATION AND MOBILITY SERVICES: 2 positions

CONTACT – Larson West PAU (310) 921-3570

**SERVICES TO PUPILS WITH A DIAGNOSIS
OF DEAFNESS / HARD OF HEARING**

ALL CLASSES ARE PART OF THE LARSON WEST PAU

| GRADE LEVEL | SCHOOL / DISTRICT |
|-----------------------------|--|
| Infants/Preschool: | Howard Wood / Torrance (unilateral hearing loss) (1 SDC and Home Program) |
| Infants | Washington / Redondo Beach (1 SDC and Home Program) |
| Infant / Preschool | Howard Wood / Torrance (1 SDC Cochlear Implant) |
| Preschool/Elementary | Howard Wood / Torrance (1 SDC Aural Program) |
| Elementary | Jefferson/ Redondo Beach (2 SDC) |
| Middle School | Manhattan Beach Middle / MBUSD (1 SDC) |
| High School | MiraCosta / Manhattan Beach (2 SDC) |

ITINERANT SERVICES: 14 positions

AUDIOLOGISTS: 4 positions

CONTACT -Larson West PAU: (310) 921-3570

**SERVICES TO PUPILS WITH A DIAGNOSIS OF:
DEVELOPMENTAL DISABILITIES**

Including Transition Programs

All classes (except 2) are part of the *Imperial PAU*
Larson West Transition at *Larson West PAU* office (2 SDC)

| GRADE LEVEL | SCHOOL / DISTRICT |
|--------------------|---|
| High School | North High / Torrance (4 SDC) |
| Transition | Hamilton Adult / Torrance (2 SDC) Leuzinger High/Lawndale (2 SDC) Larson West Transition/ Larson West PAU Office (2 SDC) |
| Transition | Hawthorne High/Centinela (2 SDC) |

Note: Districts provide the majority of options for their pupils at the lower grade levels.

The District of Lawndale provides the program for Hawthorne, Lennox, and Wiseburn.

**SERVICES TO PUPILS WITH A DIAGNOSIS OF:
EMOTIONAL DISTURBANCE**

CLASSES ARE PART OF THE LARSON WEST PAU

| GRADE LEVEL | SCHOOL / DISTRICT |
|--|--|
| K - 2 | Typically served in district programs |
| Elementary (2nd – 5th Grades) | Prairie Vista South/Hawthorne (2 SDC) |
| Middle School | Casimir Middle School/Torrance (1 SDC) |
| Middle School | Miraleste / Palos Verdes (1 SDC) |
| Middle School | Prairie Vista South / Hawthorne (2 SDC) |
| High School | Torrance High / Torrance (1 SDC) |
| High School | Miracosta High / Manhattan Beach (1 SDC) |
| High School | Malaga Cove School / Palos Verdes (4 Class) |
| 45-Day Program | 320 Knob Hill/ Redondo Beach (1 Class) |
| TREATMENT PLUS: High School | Malaga Cove School / Palos Verdes (1 Class) |
| TREATMENT PLUS: Middle School | Prairie Vista / Hawthorne (1 Class) |
| DUAL DIAGNOSIS | Prairie Vista / Hawthorne (1 Class) |

CONTACT- Larson West PAU (310) 921-3570

**SERVICES TO PUPILS DIAGNOSED WITH ORTHOPEDIC
IMPAIRMENTS / MULTIPLE DISABILITIES**

ALL CLASSES ARE PART OF THE *Imperial PAU*

| GRADE LEVEL | SCHOOL/DISTRICT/PAU |
|----------------------|---|
| Infants | Imperial School / Wiseburn (1 SDC) Jefferson / Redondo Beach (1 SDC) |
| Preschool | Jefferson School / Redondo Beach (2 SDC) |
| Preschool | Imperial School / Wiseburn (1 SDC) Valley Hermosa/ Hermosa (1SDC) |
| Elementary | Washington School / Redondo Beach (2 SDC) |
| Elementary | Imperial School / Hawthorne (2 SDC) |
| Middle School | Adams School / Redondo beach (1 SDC) |
| Middle School | Casimir/Torrance (1 SDC) |
| High School | North High / Torrance (3 SDC) |
| Transition | Leuzinger/Centinela Valley (2 SDC) |

DIS / OH 2.0 Positions

**SERVICES TO PUPILS DIAGNOSED WITH:
SEVERE DEVELOPMENTAL DISABILITIES, AND MEDICAL
FRAGILE CONDITIONS**

*May include other disabilities like deafness, blindness, or autism, together
with severe to profound mental retardation*

| GRADE LEVEL | SCHOOL/DISTRICT/PAU |
|--|--|
| Infants (Selected placements only via agreement with Regional Center) | Imperial School / Wiseburn (1 SDC) Jefferson School / Redondo Beach (1 SDC) |
| Elementary | Washington School / Redondo Beach (1 SDC) Jefferson School / Redondo Beach (1 SDC) |
| Preschool – Transition | Imperial School / Wiseburn (10 SDC) Jefferson School / Redondo Beach (2 Pre-school) |
| Middle School | Adams School / Redondo Beach (2 SDC) |
| High School | Leuzinger High / Centinela Valley (2 SDC) |
| Transition | Hawthorne / Centinela Valley (2 SDC) |
| Transition | Leuzinger High / Centinela Valley (1 SDC) |
| Transition | Hawthorne High/ Hawthorne (1 SDC) |

ALL CLASSES ARE PART OF THE *IMPERIAL PAU*

**HOME / HOSPITAL: 3 POSITIONS
(Imperial PAU)**

LOS ANGELES COUNTY OFFICE OF EDUCATION

Referral Procedures

- ** The referring District will send the appropriate referral packet to the PAU using the Southwest SELPA Inter-District Form. It is the responsibility of Districts to enter out of SELPA/State IEP's into SEIS.**
- ** The District will include all of the items listed on the SELPA form. A current transcript must be included for all high school students.**
- ** The PAU will assign a school psychologist to process the referrals.**
- ** The psychologist and any other assigned staff member will review the referral to determine the appropriateness of the program.**
- ** An IEP meeting will be arranged. The District staff and the parents will be notified according to protocol and compliance issues.**
- ** A copy of the referral packet will be circulated to the appropriate staff member (Teacher, Nurse, Language Speech Specialist, Adaptive Physical Education Teacher)**
- ** The Intake, if appropriate, will be done at the time of the IEP meeting. All necessary paperwork will be completed at the meeting.**
- ** If the student is to receive any Designated Instructional Services, a copy of the IEP needs to be given to the appropriate staff member.**

- LA County Office of Education
 PAU Itinerant Infant *
 Other _____
 (* Referrals for infant services go to the SW SELPA office)

SOUTHWEST SELPA REQUEST FOR SERVICES

SEIS ID # _____

SSID # _____

Referring District/Charter: _____

Disability(s): _____

| | | | |
|---|------------------------|-------------------------------|-------------|
| Full Name of Pupil: <i>(Last, First, Middle)</i> | | Sex: | Birth Date: |
| Address <i>(Number, Street, City, Zip)</i> | | Home Phone: | |
| Name(s) of Person(s) Child Resides With: | Relationship to Pupil: | Guardian/Parent Work Phone: | |
| | Relationship to Pupil: | Guardian/Parent Work Phone: | |
| Parent Information <i>(if Different From Above)</i> : | | Language(s) of Communication: | |
| Parent (s) Address <i>(Number, Street, City, Zip)</i> : | | Phone: | |

COMPLETE AND INCLUDE THE FOLLOWING WITH YOUR REFERRAL:

| | Dated | | Dated |
|--|-------|---|-------|
| A. Parent Questionnaire | _____ | H. Assessment Plan and Report <i>(Initial & Current)</i> | _____ |
| B. Psycho-educational Case Study | _____ | I. Documentation of Hearing & Vision Screening Results | _____ |
| C. Home Language Survey | _____ | J. Hearing /Vision Screening Results | _____ |
| D. DIS Evaluation(s) | _____ | K. CELDT / CAHSEE Results | _____ |
| E. Immunization Records | _____ | L. Transcripts | _____ |
| F. Other Pertinent Information (Specify) | _____ | <u>Deaf & Hard of Hearing/VI Additional:</u> | |
| G. LACOE (Prelim. Info. /ED Forums) | _____ | DHH - Audio logical Assessment Report | |
| | | VI- Eye Exam Report by Ophthalmologist | |
| | | <u>NOTE: (Incomplete referrals will be returned to sender)</u> | |

SCHOOL HISTORY:

| | | | |
|------------------|------------------|----------------|--------|
| Current School: | District/County: | Grade/Level: | Age: |
| Previous School: | District: | City and State | Grade: |
| Previous School: | District: | City and State | Grade: |

| | | | |
|--------------|--|---------------------------------|--------------------------------|
| Referred by: | <input type="checkbox"/> School District | <input type="checkbox"/> Parent | <input type="checkbox"/> Other |
| Name: | Title: | Agency: | Phone: |
| | | Email: | |

SIGNATURES TO INITIATE REFERRAL:

| | |
|---|----------------|
| Signature of Parent, Legal Guardian or Surrogate Parent: <i>(Specify)</i> | Date Signed: |
| Signature of Superintendent or Authorized Representative: <i>(Title)</i> | Date Signed: |
| Fax Acknowledged and Received By Whom: | Date Received: |





SECTION 12

NON-PUBLIC SCHOOL/
NON-PUBLIC AGENCY
PLACEMENT



NON-PUBLIC SCHOOL/NON-PUBLIC AGENCY PLACEMENT

| | |
|--|----------|
| 12.1 NONPUBLIC SCHOOL/NONPUBLIC AGENCY PLACEMENT PROCESS | 1 |
| 12.2 OUT OF STATE NON-PUBLIC PLACEMENT GUIDELINES (PENDING CDE GUIDANCE) | 1 |
| 12.3 TRANSITION OF STUDENTS FROM ELEMENTARY DISTRICT TO HIGH SCHOOL DISTRICT | 1 |
| 12.4 CHANGE OF STUDENT RESIDENCE | 2 |
| 12.4 A TRANSFER OF STUDENT RECEIVING SERVICES IN NON-PUBLIC SCHOOL | 2 |
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| APPENDIX A REPORTING OF OUT-OF-STATE NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY PLACEMENT | |
| APPENDIX B GLAAS NON-PUBLIC SCHOOL/NON-PUBLIC AGENCY MASTER CONTRACT AND ISA (INSERT ANNUAL UPDATE) | |
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| APPENDIX D NON PUBLIC AGENCY/BEHAVIORALLY BASED PROGRAMS/INTERVENTIONS GUIDELINES | |
| APPENDIX E GUIDELINES ON LEA ROLES AND RESPONSIBILITIES FOR STUDENTS PLACED IN NON PUBLIC SCHOOLS (NPS) | |

NOTE: The Southwest SELPA is developing an NPS/NPA procedural guidelines handbook. For Educationally Related Mental Health Services (ERMHS), see the Southwest SELPA ERMHS guidelines.

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NON-PUBLIC SCHOOL/ NON-PUBLIC AGENCY PLACEMENT

12.1 Non-Public School/Agency Placement Process

Before an LEA places a student with a disability in, or refers a student to, a non-public school (NPS), the LEA shall hold an IEP team meeting to review the IEP.

The IEP team may recommend a NPS placement when a public school placement cannot be identified, which will appropriately meet the student's needs. The IEP team shall take steps to find an appropriate placement in a public program operated by another LEA or the LACOE special education programs. Following determination by the IEP team that the student requires a NPS placement, the LEA in consultation with parents and other public agencies, (which may have financial responsibilities for the placement of the student) will select one or more non-public schools to determine which one can implement the student's IEP. (EC 56342)

12.2 Out-of-State Non-Public Placements

Before contracting with a NPS outside of California, the LEA shall document its efforts to utilize public schools or to locate an appropriate NPS within the state.

If an LEA decides to place a student in an NPS outside of this state, the LEA shall indicate the anticipated date for the return of the student to a public school or NPS or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student.

If an LEA places a student with an NPS outside of this state, the student's IEP team shall submit a report to the (district) superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the LEA to locate an appropriate public school or NPS or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements made outside of this state. (E.C. 56365) The District will complete *Reporting of Out-of-State Nonpublic, Nonsectarian School and Agency Placement* form, send it to CDE Interagency-Nonpublic Schools/Agencies Unit and send a copy to the SELPA office for reporting functions.

NOTE: See Appendix A for the *Reporting of Out-of-State Nonpublic, Nonsectarian School and Agency Placement* form.

12.3 Transition of Students from Elementary District to High School District

An elementary school district shall notify a high school district of all students placed in non-public schools prior to the annual review of the IEP for each student, who may transfer to the high school district.

When a student with a disability meets LEA requirements for completion of a prescribed course of study and adopted differential proficiency standards, as designated in the student's IEP, the LEA, which developed the IEP, shall award the diploma.

12.4 CHANGE OF STUDENT RESIDENCE

12.4 A. Transfer of Student Receiving Services in Non-Public School

When a student, receiving services in a NPS, moves outside of the boundaries of the local district, the parent shall immediately report the change of residence to the administrator of both the former and new public school and the NPS. As agreed by the terms of the contract, the contracting NPS shall immediately notify the LEA in both the former and new residence areas. The superintendent (or designee) of the local district making payment to the NPS must immediately notify the new local district of the transfer and provide a copy of the student's records, including the IEP, and the contract for services with the NPS. The fiscal responsibility of the former local district shall terminate on the last day of the student's residence in that district.

Within (15) working days of receiving the student's records, the receiving district in the SELPA shall conduct a review of the student's IEP to determine whether or not the NPS placement is still appropriate. The following factors shall be considered in determining the appropriateness of the pupil's current placement:

- No appropriate public education program is available.
- To move the student at the time of change of residence would be harmful to the health, welfare or educational progress of the individual.
- The NPS continues to be within a reasonable distance and/or travel time from the home of the student.
- Other contingencies that necessitate the individual remaining at the NPS as determined by the IEP team.

If the student's NPS placement is considered appropriate in keeping with the federal mandate of the least restrictive environment, the receiving LEA shall negotiate a new contract for services with the NPS. If the placement is considered inappropriate, the new

LEA shall, after a review of the IEP and with the consent of the parent/guardian, provide the needed special education services and facilities.

12.4 B. Transfer of Student in a Residential Non-Public School

When a student was placed and residing in a residential NPS prior to transferring to a school district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the district that made the residential NPS placement in the SELPA prior to transfer shall continue to be responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends. (EC 56324(c))

[District Letterhead]

Cover Memo

Reporting of Out-of-State Nonpublic, Nonsectarian School and Agency Placement

TO: Interagency-Nonpublic Schools/Agencies Unit, Special Education Division

FROM: (District Superintendent)

As required by EC 56365 9 (f), attached you will find the report form regarding a student in our district that has been placed with an out-of-state nonpublic school/nonpublic agency.

District Superintendent

Date

cc: Southwest SELPA Office



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5. Out-of-State Pupil Placement and Costs (continued).

6. Related Services. List and identify cost of related service(s). Use additional sheets, if necessary.

7. Describe the efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination, thereof, within the State of California.



INSERT ANNUAL UPDATE

**GLAAS NON-PUBLIC SCHOOL/NON-
PUBLIC AGENCY MASTER
CONTRACT AND ISA**

NPS/NPA ACCESS TO SEIS PROCEDURES

Upon CDE Approval and completion of SW SELPA Project Optimal Procedures

| INITIAL ACCESS FOR NEW NPS/NPA | | |
|--|---|--|
| LEA | SELPA | NPS |
| Special Education Director/ Designee will contact SELPA <i>Coordinator: Data Management Systems</i> when the district wants an NPS/NPA to have access to SEIS. | <i>Coordinator: Data Management Systems</i> will create <u>one</u> User Account for the NPS/NPA provider. | NPS/NPA will sign an electronic certification form agreeing to the conditions of SEIS access. |
| | Provides training to NPS providers. | Provider will attend SEIS training prior to gaining access. |

| ACCESS STUDENT RECORD PROCEDURES | |
|---|--|
| LEA | NPS |
| LEA will manage NPS/NPA Providers | The NPS/NPA is only authorized to input data onto the following IEP forms: <ul style="list-style-type: none"> • <i>Individual Transition Plan</i> • <i>Present Levels of Academic Achievement and Functional Performance</i> • <i>Annual Goals</i> • <i>Annual Goals & Benchmarks</i> • <i>Annual Goals & Objectives</i> • <i>Behavior Support Plan</i> • <i>Accommodations</i> • <i>Progress Reports</i> |
| LEA will add/remove the NPS/NPA provider to the student record. | NPS/NPA will notify LEA when a provider is no longer serving the student. |



**SOUTHWEST SELPA
NON PUBLIC AGENCY/BEHAVIORALLY BASED PROGRAMS/INTERVENTIONS
GUIDELINES FOR COLLABORATION DISCUSSION PRIOR TO NPA PROVIDING
SERVICES IN DISTRICT**

These guidelines do not replace conditions set forth in the NPS/NPA master contract.

INTRODUCTION

Behaviorally based programs/interventions are provided to students who are determined by district IEP teams to require such services for a free appropriate public education (FAPE). LEAs contract with Nonpublic Agencies (NPA) to provide behaviorally based programs/interventions because they have the expertise and staff available to provide this service. When an LEA contracts with an NPA to provide behaviorally based programs/interventions services it is understood that the LEA is the client and therefore all progress reports, recommendations for changes in services must be directly communicated to the LEA prior. The LEA has the legal authority for consideration of services including conducting observations.

CONFIDENTIALITY

Confidentiality is of utmost importance for all students. No one is permitted to discuss the name of one student in the presence of another parent or in another student's home. Parents are not permitted to ask providers about other students. It is expected that both parents and providers maintain a professional relationship.

Behaviorally based programs/interventions services are confidential and are based on individual student need as determined by the district IEP team.

PROFESSIONALISM

Providers, parent(s)/guardian(s), will conduct themselves in a mutually respectful and professional manner.

Providers only provide the behaviorally based programs/interventions as stipulated on the student's IEP.

Providers will not work for the family in any other capacity.

Providers will not form a personal relationship with the family while providing behaviorally based programs/interventions services.

Providers are members of the IEP team and will not act as advocates for the student at IEP team meetings.

Providers observing or participating in class programs shall only share objective data related to the student they are observing. Any concerns should be addressed to the site administrator, program specialist or district special education administrator. Upon conclusion of observation the provider shall share impressions with the program specialist or special education administrator.



Providers will only use cell phones during sessions or observations for data collection or student reinforcement. The provider shall adhere to school site rules pertaining to cell phones.

The IEP document does not stipulate a provider's name only that the service is being provided by an NPA.

The IEP document does not stipulate a specific methodology.

Provider must notify teacher or parent (for in home services) in advance of cancellation.

Provider must follow school site procedures (e.g. signing in, wearing a badge, etc).

Providers shall not transport students.

ROLE OF PARENT/GUARDIAN

A parent, legal guardian, or appointed caregiver must be present in the home. An appointed caregiver is defined as a responsible adult who accepts legal responsibility and liability for the student receiving services.

If no responsible caregiver is present in the home at the time of arrival, the provider will wait up to 15 minutes before determining the session is cancelled by the parent/guardian. Sessions cancelled under these circumstances will not be re-scheduled or considered for make-up.

All questions/concerns regarding procedures, teaching strategies, staffing, program changes, student progress, scheduling, or any other matter related to the student's education and program development, are to be addressed to the district of residence special education director or designee.

For in home programs, it is the expectation that the parent/guardian/caregiver will actively participate.

SERVICES

Behaviorally based programs/interventions services are not provided on student-free days, weekends, school holidays, or school vacation days.

If the student is ill and is absent from school, behaviorally based programs/interventions services will be cancelled for that day and the service time is not re-scheduled or considered for make-up.

If the parent/guardian cancels or discontinues an on-going session (including make-up or rescheduled sessions) the district shall be immediately notified.

In the event that the service provider must cancel a session, every effort will be made to re-schedule the session within the month.



Provider shall maintain service data logs and provide to district on a periodic basis.

If a parent/guardian requests information from the provider, outside the scope of their duties and/or requests a possible change in service delivery, the provider will inform the district and the district will provide the information to the parent.

Developing goals is a collaborative process with the provider and the district. The provider will send draft goals to the district one week prior to the IEP team meeting for review.

Progress reports must adhere to the timeline as specified on the IEP. Providers must send *progress reports* directly to the district. The district sends the *progress reports* to the parent.

BILLING AND SERVICE VERIFICATION

Non-billable Services

Attendance at IEP team meetings is not a billable service.

Billing

Billing invoices must be submitted per student in a clear, readable and logical fashion.

Services on the billing invoice must match the IEP.

Parent or teacher must verify services received on a district agreed upon Services Log after each session.

“Make-up” sessions must be indicated as “make-up” session including the date of the missed service.

Issues related to billing are to be discussed with the district staff and not with parents/students.



This is an internal document for training purposes and does not replace conditions set forth in the NPS/NPA master contract.

**PER THE MASTER CONTRACT
SUGGESTED GUIDELINES ON LEA ROLES AND RESPONSIBILITIES
FOR STUDENTS PLACED IN NON PUBLIC SCHOOLS (NPS)**

| LEA | NPS |
|---|--|
| Prior to IEP Team Meeting | Prior to IEP Team Meeting |
| <ul style="list-style-type: none"> • Call NPS contact person at least 30 days prior to annual review date to set meeting date. • Determine date and location of meeting • Call parent to confirm date. • Verify with NPS that their staff is available. • Invite additional services providers on the IEP • Contact NPS when the meeting date is confirmed. • Send out meeting notice as soon as confirmation of attendees is established. • Send copy of IEP team meeting notice to NPS. • Send out Assessment Plan, if appropriate. • If LEA conducts assessments, provide to NPS as soon as possible. • Send Parent rating scales, etc. | <ul style="list-style-type: none"> • Confirm attendance at meeting of appropriate staff. • Provide appropriate LEA staff opportunity to observe. • Provide appropriate LEA staff opportunity to assess, if necessary. • <u>In advance of the IEP meeting</u> - Enter the following information into IEP forms in SEIS <ul style="list-style-type: none"> ○ present levels of performance ○ individual transition plan ○ drafted goals ○ accommodations ○ behavior support plan ○ upload electronic copies of assessment reports • Without predisposition, if NPS has knowledge that a change in placement/services are to be considered, notify the LEA in advance for review of present levels of performance and progress. |
| Day of IEP Team Meeting | Day of IEP Team Meeting |
| <ul style="list-style-type: none"> • LEA representative must attend IEP team Meeting. • Bring IEP forms and laptop. • Enter the following information into IEP forms in SEIS. <ul style="list-style-type: none"> ○ Verify parent contact information ○ State testing ○ Special factors ○ Services ○ Notes • LEA representative chairs the IEP team meeting. • Provide Procedural Safeguards and any clarification to parents. • Retain original IEP | <ul style="list-style-type: none"> • Present the following information <ul style="list-style-type: none"> ○ present levels of academic achievement and functional performance ○ proposed goals ○ Individual Transition Plan (ITP) • Provide access to a computer with internet access in room where IEP team meeting is held, including a printer • Provide parent and IEP team members with a copy of the IEP |
| Other | Other |
| <ul style="list-style-type: none"> • Notify NPS and send a copy of Signature and Parent Consent when the IEP is signed (if not signed day of meeting). • Send copies of Statewide Assessment (CMA/CST/CAPA) results to NPS. • Provide NPS with copies of amendments/addenda. • Notify NPS immediately when parent moves. | <ul style="list-style-type: none"> • Complete (in SEIS) progress reports and benchmarks to LEA and parents as required by IEP. • Provide LEA with copies of Suspension, Expulsion and Behavior Emergency Reports within 24 hours of the disciplinary action. • Notify district immediately when parent moves. |







SECTION 13

LOCAL PLAN AND MOUS



LOCAL PLAN POLICIES AND MOUS

- 13.1 SOUTHWEST SELPA LOCAL PLAN FOR SPECIAL EDUCATION**
- 13.2 CIVILITY GUIDELINES**
- 13.3 GUIDELINES FOR SCHOOL BASED/CLASSROOM OBSERVATION**
- 13.4 INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)**
- 13.5 PRIVATE SCHOOL AGREEMENT (GLAAS)**
- 13.6 SURROGATE PARENT PROCEDURES**



**Southwest Special Education
Local Plan Area**

**LOCAL PLAN
FOR
SPECIAL EDUCATION**

2008

**Southwest SELPA
320 Knob Hill Avenue
Redondo Beach, CA 90277
310.944.3217**

March 2012







Vertical line of text or markings along the left edge of the page.

**SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA
320 KNOB HILL AVENUE
REDONDO BEACH, CA 90277
PHONE: (310) 944-3217 FAX: (310) 944-3590**

EXECUTIVE SUMMARY

The Southwest SELPA via the Superintendents' Council has worked to address the requirements of Education Code 56200 to update required agreements and the SELPA Local Plan. Each document required to be approved by Local School Boards of Education, independent Charter Schools, the County Office of Education, and the State Board of Education is outlined below. Approval is required as a condition for ongoing funding and to assure administration necessary to provide special education and related services to pupils with disabilities.

LOCAL PLAN

Per State Board of Education action, the Local Plan contains "assurances" consistent with State and Federal law. These "assurances" are now consistent throughout California and were approved by the SELPA in 2007. They are included in the appendix for reference, but do not require additional approval. In addition, the Local Plan outlines the governance structure of the SELPA that is defined as the Superintendents' Council of all member districts/LEA Charters with a weighted vote based on average daily attendance.

Additional sections reflect State priorities related to early childhood education and charter schools. Our Local Plan was reviewed by the California Department of Education and approved as to contents addressing all requirements.

The Community Advisory Committee, consisting of parents of children with disabilities, has had an opportunity to review and provide input into the Local Plan.

ADMINISTRATIVE UNIT AGREEMENT

Each SELPA must designate an Administrative Unit for purposes of receiving and dispensing funds according to an allocation plan approved by the Superintendents' Council. Los Angeles County Office of Education is the current Administrative Unit. This agreement also defines role of the SELPA Director.

CHANGES TO THE LOCAL PLAN

Changes to the Local Plan are generally in the area of conformity to changes in the law and clarification of previous language. The section on Behavior Interventions was added to the Local Plan to assure local awareness of the appropriate use of behavior interventions, staff training requirements, and prohibitions on specific aversive procedures. Changes to the Governance Structure related to charter schools were also clarified.

Members of the Southwest SELPA:

| | |
|--|---|
| Centinela Valley Union High School District | Children of Promise Preparatory Academy |
| E1 Segundo Unified School District | Da Vinci Design Charter High School |
| Hawthorne School District | Da Vinci Science Charter High School |
| Hermosa Beach City School District | Environmental Charter High School |
| Inglewood Unified School District | Environmental Charter Middle School |
| Lawndale School District | ICEF Inglewood Elementary Charter Academy |
| Lennox School District | ICEF Inglewood Middle Charter Academy |
| Los Angeles County Office of Education | Los Angeles International Charter High School |
| Manhattan Beach Unified School District | New West Charter Middle School |
| Palos Verdes Peninsula Unified School District | Opportunities for Learning Charter High School - Capistrano |
| Redondo Beach Unified School District | Opportunities for Learning Charter High School - Hermosa |
| Torrance Unified School District | Opportunities Unlimited Charter High School |
| Wiseburn School District | Options for Youth Charter High School |
| Animo Inglewood Charter High School | Today's Fresh Start Charter School |
| Animo Leadership Charter High School | Today's Fresh Start Inglewood |
| Century Academy Charter School | Wilder Preparatory Academy Charter School |
| Century Community Charter School | |

Mary P. Ring, Director
Southwest SELPA



SECTION II: GOVERNANCE STRUCTURE

Description of Southwest Area (SELPA) Administrative Structure

The administrative organization of the Southwest Special Education Local Plan Area, incorporates the management staffs from all participating districts, member charter schools and County Office of Education into a framework that provides direct supervision over all programs as well as the coordination of regionalized services, such that access to special education and services for all individuals with exceptional needs residing in the geographic area served by the SELPA is assured. The respective governing boards, superintendents, directors of special education, charter school directors, and Community Advisory Committee provide appropriate support to the governance and implementation of the Comprehensive Plan for Special Education.

a. Boards of Education

Each participating Board of Education or member Charter School Board of Directors shall adopt local policies and administrative regulations as required by law to support the Local Plan. Districts update local policies per procedures specific to each district.

Each participating Board of Education or member Charter School Board of Directors will be represented by its superintendent, Charter School Director or Joint Powers Agreement (JPA) representative, or designee, on the Superintendents' Council. Except for Los Angeles County Office of Education, a designee may be a voting member of the Superintendents' Council for up to two meetings per school year, July through June.

Each participating Board of Education shall maintain responsibility for programs operated by its district, approved charter school(s); or County Office, including employment and evaluation of personnel, except where noted.

Each Board of Education and member Charter School or JPA shall appoint members and alternates to the Community Advisory Committee according to policies approved in the SELPA Local Plan for Special Education.

Each Board of Education shall adopt policies as required by law relative to Due Process Procedures. EC 56501-56507

Each Board of Education shall adopt policies as required by law relative Complaint Procedures. EC 56500.2

Each Board of Education shall adopt policies as required by law relative to all Procedural Safeguards of "IDEA" (Individuals with Disability Education Act). EC 56500

Each Board of Education shall post Budget Hearing notices at each school site in the district at least fifteen days in advance of the Public Hearing.



“The description of due process in Education Code Section 56500-56507, for purposes of Code of Federal Regulations, 34 C.F.R. 300.237, are hereby included in the local plan by reference.”

b. County Board of Education/County Superintendent of Schools

The Los Angeles County Board of Education, as the Responsible Legal Agency (RLA) shall:

- 1) Approve contractual agreements for all Special Education Local Plan Areas for which the County is the RLA and which meet the requirement of EC 56200 and hereafter referred to as “local plan.”
- 2) Verify the Certificate of Assurances and Certificate of Compatibility by the County Superintendent of Schools.
- 3) Approve written agreements for regionalized services and adopt budgets for those services.
- 4) Approve budgets for all programs operated by the County Office.
- 5) Adopt policies and budgets to assure the appropriate placement of individuals with exceptional needs who reside in licensed children’s institutions, foster homes, and court schools.
- 6) Approve SELPA policies, which affect the County’s role as RLA or which affect programs operated by the County Office.
- 7) Appoint representation to the Community Advisory Committee.

c. Resolution/Mediation Procedures for Differences at the Governing Board Level

All District Boards, Charter Schools, and the County Board must approve the local plan for submission to the State. If any district board fails to approve the local plan, that board shall notify all other participating agencies of the reasons for not approving the plan and request that the County superintendent or designee conduct a hearing on the merits of the local board’s objections and negotiate a settlement. If negotiations cannot be settled, the superintendent shall convene a three-person panel as follows: (1) one person selected by the district objecting to the plan, (2) one person selected by the districts agreeing to the plan, (3) one person selected by mutual agreement of the other two appointees within 5 days. The decision of the panel will be binding for all parties involved in the dispute.

The annual budget plan shall be approved by the Superintendents’ Council at a public hearing per CDE guidelines. A 15-day notification of the date of the public hearing shall be given.

The County Board shall approve local written agreements if a simple majority of local boards have approved the agreements. If a vote results in a 50/50 split, the action of the County Board shall be decisive. If the written agreement for local requirements is not



approved, the agreement shall be revised within two weeks in accord with instructions from the County Board and resubmitted to all participating districts. This process shall be repeated until agreement is reached by a simple majority.

d. Process for Joining the Southwest SELPA

A local education agency (LEA) and/or charter school seeking status for special education funding as a LEA may request to join the Southwest SELPA via the following procedure:

A letter of request for membership shall be sent by the LEA or charter school to the Southwest SELPA no later than March 15th of any school year for membership in the following fiscal year. It is understood that charter schools seeking status for funding purposes and are not actual LEAs unless authorized by the State Board of Education. A local education agency and/or a charter school may be required to join a Joint Power Agreement for purposes of membership and funding per action of the Superintendents' Council.

This letter must detail the following: Name of LEA/charter, contact person, address, phone, fax, and email. Total enrollment (actual or projected), plan for delivery of special education services and background information about the LEA or charter (policies, procedures, documentation, applications).

Letters received after March 15 through June 30 of any year shall delay the process until second fiscal year following the receipt of letter unless the Superintendents' Council agrees to take action on the request. Such agreement shall be by a 60% majority vote of all votes cast.

The Superintendents' Council shall review the letter and supporting documentation. As necessary and appropriate, the Superintendents' Council and/or their designee may request additional information, including a face-to-face meeting with the LEA and/or charter school.

The SELPA Office shall conduct a special education review of the LEA and/or charter school utilizing a format similar to the CDE format. Review of previous compliance reviews may also be required. Results of the review including the willingness and ability of the LEA and/or charter to resolve any non-compliance shall be reported to the Superintendents' Council as part of the decision making process.

A final decision shall be made by the Superintendents' Council regarding membership and the projected start date.

The Southwest SELPA may approve a guest status for a LEA or charter school seeking participation as a LEA for funding purposes to attend Directors' Council meetings during the process of reviewing the application for membership.

The Superintendents Council may elect to approve or deny any request for membership based upon a review of fiscal and programmatic issues. Priority for approval shall be requests where the programmatic issues are compatible with the SELPA Local Plan and fiscal issues are revenue neutral.



Additional requirements for all new members into the Southwest SELPA including the LEA and/or a charter school operating as a LEA for purposes of special education:

- Agreement of all sections of the Local Plan and adoption of the LEA governance body.
- Agreement of approved actions of the of SELPA Superintendents' Council as contained in approved Superintendents' Council minutes.
- Agreement that the LEA/Charter maintains responsibility for all aspects of providing special education and related services, including the contracting and cost of any nonpublic school or agency, attorney representation as part of mediation, due process/or complaint processing and other costs associated with the provision of special education and related services.
- Agreement to participate in the Special Education Information System (SEIS) system by providing hardware and staff consistent with required specifications.
- Agreement to all sections of the SELPA Participants Agreement and adoption by the LEA Governance body.
- As appropriate and voluntary on the part of a LEA or charter, agreement to representation via a SELPA approved Joint Powers Agreement (JPA).

The Southwest SELPA may approve membership of a group of LEAs and/or charter schools who elect to for a Joint Powers agreement (JPA). The SELPA may develop a JPA for purposes of addressing small LEA/charter needs as a voluntary option for membership. Such development shall be approved by the Superintendents' Council. The SELPA may elect to allow an existing JPA to join the SELPA up to a total of three JPAs maximum. It is understood that the JPA shall have voting privileges based on the total ADA of all JPA members and is entitled to the same representation as any individual LEA or charter school. The SELPA Director shall be an ex-officer member (non voting) of this SELPA developed JPA and have access to other member JPAs to address issues consistent with the Local Plan.

Approval for membership into the SELPA shall be by any majority vote of the voting members of the Superintendents' Council. Such membership requires the applicant to agree to the provisions of the current SELPA Local Plan, including policies and items approved by the SELPA governance structure. Such adoption of the current Local Plan and Participant's Agreement shall not require reauthorization of the Local Plan by all members. Such membership shall be indicated via the addition of the new member's name on the Local Plan and Participant's Agreement without new approvals by other members. In addition, the member must adopt local policies and administrative regulations or procedures sufficient to support the Local Plan and in compliance with state or federal review. Failure to comply with the criteria listed above shall result in the withholding of any funding allocations or portions of allocation until compliance of those items is completed.

e. Superintendents

The superintendent or chief officer of each participating district, LEA Charter, JPA, or County Office shall continue to be responsible to their Boards for the administration of programs located within their districts.

The superintendent or chief officer of each participating district, LEA Charter, JPA, or County Office shall inform their Boards of all aspects of the SELPA Local Plan for Special Education.

The superintendent or chief officer of each participating district, LEA Charter, JPA, or County Office shall recommend policies to their Boards for adoption. These policies shall address legal requirements and issues of concern to the member agencies of the SELPA.

The superintendent or chief officer of each participating district, LEA Charter, JPA, or County Office shall implement and administer policies recommended by the Superintendents' Council and adopted by the Board of the local agency, i.e., school Board, Charter Board, JPA Board.

The superintendent or chief officer of each participating district, LEA Charter, JPA, or County Office shall be responsible for:

- a) The administration of all special education programs under the jurisdiction of their Boards of Education.
- b) The submission of proposed policies by the Superintendents' Council to Boards of Education with appropriate recommendations.
- c) The implementation of policies and procedures adopted by the SELPA.
- d) Ongoing collaboration with the SELPA director and various SELPA Councils and committees necessary to implement the Local Plan.

The Superintendents' Council shall meet quarterly at a minimum, or as needed, throughout the school year relative to their districts needs, as appropriate.

f. Superintendents' Council

The Superintendents' Council shall consist of the superintendents or designees of each participating district, State Board of Education authorized Charter School or the designee of the JPA representing a group of LEA and/or charter schools, or County Office. Except for the County Office, a designee may be a voting member for two meetings per school year only, July 1 through June 30. The State Board of Education authorized Charter shall designate a ranking administrator comparable to the authority of a Superintendent.

Each district or State Board of Education authorized Charter or the designee of the Charter JPA representing a group of member Charter schools, including the County Office, shall have voting on the Superintendents' Council based upon average daily attendance as follows:



(Note: the JPA votes are based in the total ADA from all members of the JPA who are also members of the Southwest SELPA.)

| | | |
|-------------------------|-------------------------|--------------------------|
| ● - 1099 = 1 vote | 3,100 - 6,499 = 3 votes | 10,000 - above = 5 votes |
| 1,100 - 3,099 = 2 votes | 6,500 - 9,999 = 4 votes | |

The annual ADA shall be used to determine the following year's voting system and thus updates the above formula annually. In the event the annual ADA has not been certified by the California Department of Education, the previous year's annual certified ADA shall be used until the next annual certified ADA report is available. A majority of members is required for a quorum.

Any member district or County Office of Education who has approved a charter application for a new charter school to be set up as an LEA for purposes of special education, shall be required to represent the interest of the charter for purposes of voting on the Superintendents' Council of the SELPA. The ADA for that charter shall be added to the authorizing district or COE's ADA to determine votes.

The Superintendents' Council shall elect a Chairperson from among its members for a term of one year. The Chairperson shall call and chair meetings and provide agenda items to the SELPA Director. The Chairperson may be elected for more than one term.

Once the Local Plan is approved, the Superintendents' Council shall serve as the governing board of the SELPA with all actions taken by the Council serving as the official position of the SELPA and the member districts and LEA charter schools and JPA. The Superintendents' Council shall have the authority to approve the Annual Budget and Service Plan at a special Public Hearing and meeting held by the Council.

The Superintendents' Council shall act in an advisory capacity to the Boards of Education of participating districts and charters, any JPA Board, and the County Office.

The Superintendents' Council shall provide input and guidance for policies for programs under the jurisdiction of the SELPA as necessary. The superintendents' and charter representatives shall submit these proposed policies and accompanying recommendations to their Boards of Education as appropriate and necessary.

The Superintendents' Council shall review and recommend an agreement to the Boards of Education, which reflects the components of the Local Plan.

The Superintendents' Council may appoint committees as appropriate to address key issues and to report back to the Council. Such committees may include a Charter School committee, a Finance committee, and a Membership committee. Annually the Superintendents' Council shall approve any committees, appoint membership, and assign specific tasks as appropriate. Unless appointed by the Superintendents' Council, each committee may select a chairperson from the committee membership to chair the meetings and to communicate with the Council. The SELPA Director shall be a non-voting member of each committee providing support, technical assistance, and communication with the Council. It is understood that the SELPA Director is responsible for developing any recommendations to assure compliance with state and federal laws.



The Superintendents' Council shall approve the Annual Budget and Service Plan, including any allocation plans for distribution of funds.

The Superintendents' Council shall communicate directly with the SELPA Director on SELPA-wide activities, as appropriate and provide input into the evaluation of the SELPA Director. The SELPA Director shall serve as secretary to the Superintendents' Council.

g. SELPA Director and SELPA Support Staff

A SELPA Director shall be employed by the Responsible Local Agency (RLA) or, as approved by the Superintendents' Council in agreement with the RLA, employment may be a via member district. Placement on the salary schedule of the RLA shall be in keeping with education, experience and the placement of other management employees of the RLA with comparable titles and responsibilities in accordance with personnel procedures.

A panel of superintendents shall recommend a final candidate for SELPA Director from a list of candidates who have been screened by LACOE or a district personnel office and meet the qualifications and requirements of the position.

The SELPA Director shall be evaluated annually by the RLA or employer with input from the Chair of the Superintendents' and Directors' Council including, when appropriate, recommendations for continued assignment in the position. The Chair of the Superintendents' Council may submit input for the Superintendents' Council.

The administrative support staff is the responsibility of the RLA or employing district or combination as approved in accordance with their personnel practices. Per agreement with member districts, additional SELPA staff may be employed to support specific functions as directed by the SELPA Director including an Assistant Director, a Family Resource Center Coordinator, a Director of Evaluation and Research, a Parent Support Coordinator, a Program Specialist, and an Alternative Dispute Resolution Coordinator, as examples.

The SELPA Director shall act as secretary to the Superintendents' Council, prepare agendas for its meetings, record, and submit minutes of its meetings for approval.

At the direction of the Superintendents' Council, the SELPA Director shall develop an annual schedule of meetings of the Directors of Special Education. *The purpose of these meetings shall be to accomplish those tasks, which have been identified by the Superintendents' Council and Local Plan as necessary to assure orderly and consistent implementation of policies affecting the SELPA.

*Note: The term Directors shall be used throughout the plan to signify persons responsible for special education programs in each district, charter, JPA or the County Office.

The SELPA Director shall serve as the liaison between the Superintendents' Council, Directors of Special Education, The Finance Committee and the Community Advisory Committee and will share approved copies of the minutes and/or report on activities as appropriate.



The SELPA Director shall act as coordinator for the SELPA-wide Special Education Self Review (SESR) or Verification Review Process.

The SELPA Director shall act as liaison with the Department of Mental Health, California Children's Services and any other agency in accordance with adopted interagency agreements.

The SELPA Director shall maintain awareness of all Office of Civil Rights (OCR), due process, and complaint findings. The SELPA Director shall share these findings, as appropriate, if they have SELPA-wide implications, and coordinate any necessary changes at the SELPA level. The SELPA Director shall support alternative ways to resolve disputes as a proactive approach prior to state and federal procedures.

The SELPA Director shall be responsible for the implementation of programs and services that promote positive parent and professional partnerships and parent support systems. This may include parent support systems, the Family Resource Center, a website and community outreach activities.

The SELPA Director shall provide support and technical assistance to member LEA charter schools and/or the JPA via the Charter School Committee and the SELPA Charter School Program Specialist. It is understood that Charter Schools shall have access to all SELPA programs and services in the same manner as school district LEAs.

The SELPA Director shall be an ad hoc member to all SELPA-wide committees, as appropriate.

The SELPA Director shall submit all required data to the County Office and/or State Department of Education.

The SELPA Director shall coordinate meetings with nonpublic schools' personnel to determine educational costs and shall recommend a Master Contract and rate schedule for use by districts.

The SELPA Director shall participate in state and county level SELPA directors' meetings and share information, as appropriate, with Superintendents, Directors of Special Education, the CAC, the Program Specialists' Council, and the Finance Committee.

The SELPA Director shall coordinate the local interagency agreements.

The SELPA Director shall act as an ad hoc member to the CAC (Community Advisory Committee).

The SELPA Director shall submit any waivers necessary for the implementation of the Local Plan.

The SELPA Director shall coordinate all services for infants and toddlers in California's Early Start Program and shall administer the funding of this program and supervise any staff directly responsible for Early Start coordination.



The SELPA Director shall co-sign all purchase orders for low incidence materials and equipment.

The SELPA Director shall be responsible for processing all bills to LACOE business office for reimbursement to districts for program specialists and regionalized service funds, as approved by the Superintendents' Council.

The SELPA Director may serve as line manager and supervisor of LACOE staff assigned to the Southwest SELPA in an effort to improve communication and services as approved by LACOE and the Superintendents' Council annually.

The SELPA Director shall be responsible for the coordination of the SELPA-wide data system, and CASEMIS reports.

The SELPA Director shall keep the member districts informed of current trends, best practices and innovation approaches via participation on advisory committees, conferences, and a review of the literature.

h. Directors of Special Education/Charter School Special Education Representatives

The Directors of Special Education shall to be employed by and responsible to their local districts, charter school, JPA or County Office.

Through the coordination of the SELPA Director, the Directors of Special Education and charter school representative shall establish committees and develop procedures necessary to implement policies, which affect the SELPA. The SELPA Director may elect to jointly meet with Directors or to hold separate meetings to address the unique needs of charters.

Through the coordination of the SELPA Director, the Directors of Special Education/Charter School Special Education representative shall gather and compile all data required by the SELPA, the RLA, the State Department of Education, and the Federal Government. Upon occasion, the directors may elect to hold joint meeting with the business managers of each district and the County office for matters relating to program improvement, funding and/or fiscal management.

Directors of Special Education including charter schools operating as a LEA for purposes of special education shall be responsible for:

- 1) Developing local procedures necessary to implement policies which affect the SELPA, subject to the approval of the Superintendents' Council, as needed.
- 2) Establishing committees to address ongoing concerns and needs of the SELPA including innovative approaches to addressing the needs of students based on research.
- 3) Gathering all data required by the SELPA, the County, the State Department and the Federal Government.



- 4) Coordinate and conduct district Special Education Self Review (SESR), and Verification Review Process, and/or any other Compliance review or corrective action.
- 5) Submit, to the SELPA Director, copies of any Office of Civil Rights (OCR), CCR, due process, and/or complaint finding which have SELPA-side implications.
- 6) Implement and monitor corrective actions of rulings of OCR, Fair Hearings and complaints, as required. Participate in SELPA Alternative Dispute Resolution procedures as appropriate.
- 7) Appoint district liaison to Mental Health, California Children's Services, regional centers and other agencies, as required by the interagency agreements and memos of understanding. The Director shall be the liaison if no appointment has been made.
- 8) Ensure equal access to all programs, within the SELPA, for IWEN (Individuals With Exceptional Needs) by:
 - a) Acceptance of all SELPA IEP/IFSP forms and use of the Special Education Information System (SEIS) or SELPA approved system necessary to complete CASEMIS and maintain compliance.
 - b) Acceptance of students per SELPA placement agreements and/or Inter-SELPA permits.
 - c) Implementing local procedures regarding services to students with disabilities placed in private schools by their parents.
- 9) Promote positive parent and professional collaboration via participation in SELPA activities and the CAC.
- 10) Ensure that required corrected actions, as a result of complaints, Due Process Hearings and/or OCR investigations are implemented.

"The description of due process procedures in Education Code Sections 56500-56507, for purposes of Code of Federal Regulations, 34 C.F.R. 300.237, are hereby included in the local plan by reference."

Requests for mediation and hearings should go to:

Office of Administrative Hearings (OAH)
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
(916) 263-0550



(Note: In the event the State of California changes the agency responsibility for mediation and hearings, the new address and information shall be substituted for the information above.)

It is understood that the "stay put" provisions are in effect throughout all administrative and judicial proceedings. EC 56505(d).

- 11) Assure that required information is submitted to the SELPA Director.
- 12) Supervise the activities for staff development and coordinate at the SELPA level through the Program Specialist Committee, as appropriate.
- 13) Maintain appropriate committees as necessary to address key issues in special education.

i. District, Charter and JPA Responsibility (Including LACOE)

1. Each participating district charter/JPA and County Office shall maintain the responsibility for Providing the programs and services described in the annual Budget and Service Plan.
2. Changes in the Annual Budget and Service Plan shall be brought to the Directors' Council and/or the Charter School Committee for consideration and approval.
3. Changes in program operation or delivery of services must be brought to the attention of the SELPA in writing one year in advance of such anticipated change. Final approval shall be made by the Superintendents' Council.
4. Changes in facilities must be brought to the attention of the SELPA in writing one year in advance of such anticipated changes. Final approval shall be made by the Superintendents' Council.

j. Selection Process for Responsible Local Agency (RLA)

The Los Angeles County Office of Education (LACOE) assumed the responsibilities for the RLA at the request of the Superintendents' Council in 1981. In the event that there is a need or reason to change the RLA, the Superintendents' Council would notify in writing the RLA at least one year in advance of such action. If the RLA requested to be relieved of their responsibility, the RLA shall notify in writing the Superintendents' Council at least one year in advance of such action.

RLA Responsibilities (Refer also to Participant's Agreement)

The Los Angeles County Office of Education shall perform the functions of the RLA as coordinated by the SELPA Director as follows:

- 1) Receive and disburse regionalized service funds to include, but not be limited



to, personnel development, evaluation, data collection, maintain a management information system, curriculum development, program review, interagency coordination and to monitor the appropriate use of federal, state and local funds allocated for special education.

- 2) Provide support to the SELPA Director, Superintendents' Council, Finance Committee and Directors of Special Education, consistent with the expectations of the Superintendents' Council.
- 3) Provide assistance to the Directors of Special Education in the development of policies and procedures to assure procedural safeguards to individuals with exceptional needs and their parents.
- 4) Assist the Directors of Special Education in meeting all aspects of the Local Education Assurance statement contained in the local plan, Section I.
- 5) Compile data and submit reports for the annual budget plan and other reports that may be required by the state.

k. Program Specialist

Upon the recommendation of the SELPA Director, an allocation plan for use of Program Specialist funds shall be forwarded to the Superintendents' Council for approval.

It is understood that the mandated responsibilities of the program specialist shall be provided regardless of a district's hiring of a program specialist. The SELPA director may recommend the employment of a SELPA level Program Specialist to assist a specific district, charter or address a specific program need of the SELPA. In the event that the district does not employ a program specialist, the district shall identify the person or persons responsible for these functions. These functions include staff development, teacher support and program/curriculum development for special education, collaboration, processing referrals and site level support. Funds may be allocated to any other special education expenditure.

● On a regular basis, the Program Specialists meet with the SELPA Director via the Program Specialists' Council to coordinate staff development and program specialist service throughout the SELPA. Plans and documentation are forwarded to the Directors' and Superintendents' Councils for approval. The Program Specialists' Council shall elect a Chairperson annually. The Program Specialists shall be responsible for training of new teachers and for trainings associated with IEP development. In the event a district or charter does not have a program specialist, they shall send a representative to these meetings.

l. Community Advisory Committee

- 1) EC 56190. Each plan submitted under EC Section 56170 shall establish a Community Advisory Committee. Such committee shall serve only in an advisory capacity. The CAC shall maintain written bylaws and minutes of meetings including a list of participants.



m. Community Advisory Committee Appointments

- 2) EC 56191. The members of the Community Advisory Committee shall be appointed by, and responsible to, the governing board of each participating district charter or County Office or any combination thereof participating in the Local Plan. Appointment shall be in accordance with a locally determined selection procedure with appointments determined by the Superintendents in the event no other local procedures exist. The CAC and/or the SELPA Director may recommend potential appointees to Superintendents. Where appropriate, this procedure shall provide for selection of representatives of groups specified in Section 56192 by their peers.

Such procedure shall provide that terms of appointment are for two years with additional terms up to eight years maximum.

- a) Each participating district or charter within the Local Plan shall select two representatives from their respective area to participate on the Community Advisory Committee.
- b) The Los Angeles County Board of Education shall appoint four representatives from public and/or private agencies, if available. All appointments shall be two-year terms. Community Advisory Committee may submit a list of names for consideration.
- c) Each local school board shall fill vacancies created on the Community Advisory Committee from their respective districts. Where appropriate, this procedure shall provide for selection of representatives of groups specified in Education Code Section 56192 by their peers.
- d) The Directors' Council shall assist with the coordination of the CAC.
- e) The SELPA Director shall serve as the administrative liaison to the Community Advisory Committee.
- 3) EC 56192. The Community Advisory Committee shall be composed of parents of individuals with exceptional needs enrolled in school, handicapped pupils and adults, regular education teachers, special education teachers and other school personnel, representatives of other public and private agencies, and persons concerned with the needs of individuals with exceptional needs. The committee shall select officers annually in accordance with the bylaws.

4) Parent Majority

EC 56193. At least the majority of such committee shall be composed of parents of pupils enrolled in schools participating in the local plan, and at least a majority of such parents shall be parents of individuals with exceptional needs.

5) Community Advisory Committee Responsibilities

EC 56194. The Community Advisory Committee shall have such authority and fulfill



such responsibilities as are defined for it in the local plan. Such responsibilities shall include, but need not be limited to, all the following:

- a) Advising the policy and administrative entity of the district, special education local plan area, or County Office, regarding the development, amendment, and review of the local plan. Such entity shall review and consider comments from the Community Advisory Committee.
 - b) Recommending annual priorities to be addressed in the plan by giving direct input to the District Special Education Director.
 - c) Encouraging community involvement in the development and review of the local plan.
 - d) Supporting activities on behalf of individuals with exceptional needs through the involvement in community projects, forums and conferences.
 - e) Educate the community regarding issues and public policy impacting special education.
 - f) Serve as the Advisory Board of the SELPA Family Resource Center recommending materials and programs for support.
 - g) Providing inservices on issues of importance relative to special education to parents, staff and other interested community members based on results of needs assessment.
 - h) Promoting the concept of Parent-Professional collaboration through participation and involvement of parents and professionals, at CAC trainings, meetings, and events.
 - i) The CAC chairperson shall sign the certification page of the Local Plan signifying review and participation in the revision.
 - j) The CAC Chairperson shall be invited to participate on countywide CAC Chairpersons' Committee.
- n. List of Interagency Agreements/Memorandum of Understanding (EC 56220, Title 2, CAC 60030-60330(b), 1, 2, 3, Welfare and Institutional Code 5608, Government Code 7587)

Mental Health
 California Children's Services
 Regional Centers: Harbor and Westside
 Head Start Agencies
 Early Start

These interagency agreements shall remain in effect until otherwise indicated. Copies of all agreements and status of these agreements are on file in the SELPA Office. **II-14**



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o. Other Administrative Functions

Refer to the Participant's Agreements in the Appendix Section of this plan. Agreements include procedures for transportation, facilities, excess costs, food services and reporting to the State Department.



SECTION III: CHARTER SCHOOLS

Provision of Special Education Services to Students Voluntarily Enrolled in Charter Schools

This policy applies to all Charter Schools that are chartered by educational entities located within the member districts of the Southwest SELPA. This policy also applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA [EC 47605.5 (k)(1)]. As students enrolled in charter schools are entitled to special education services provided by State and Federal funding, the charter schools will comply with all requirements of state and federal law regarding provision of special education services [EC 56000 et seq., Individuals with Disabilities Education Act (20 U.S.C. Chapter 33)]. Children with disabilities and their parents shall retain all rights under IDEA.

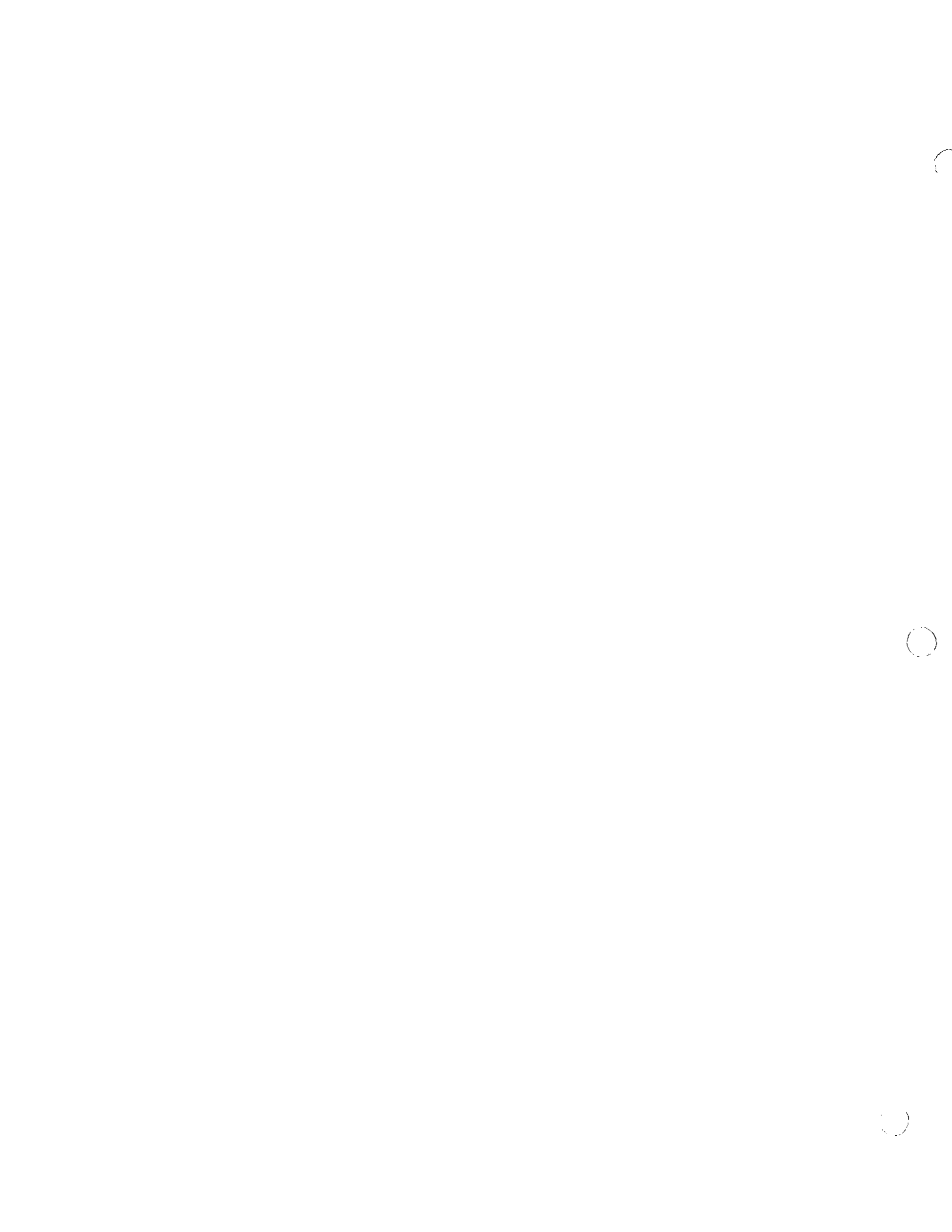
Policy Statement

Special Education and related services shall be provided to all eligible individuals within the jurisdiction of the Southwest SELPA in accordance with this Local Plan. Students enrolled in charter schools chartered by member districts shall receive services in a manner similar to other students. No governing board shall grant a charter unless the charter includes assurances that special education instruction and/or services shall be provided to all eligible disabled students, enrolled in charter school, in accordance with the SELPA Local Plan.

Funding for special education services, participation in the governance structure and responsibility for provision of services shall be based on the categorization of the individual charter school. Education Code section 47613.5, added in 1999, allows a charter school to be deemed a Local Education Agency (LEA) for purposes of special education and receive direct funding; or continue to be categorized as a Public School within a district. All approved charter schools will be deemed public schools within a district unless the Charter School meets the same criteria as any other LEA wishing to join the SELPA and as a result, the SELPA Superintendents' Council has deemed the charter school a LEA for purposes of special education funding. If the approval of a charter requires a change to the SELPA allocation plan, such change will be adopted pursuant to the policy making process of the SELPA. Approval of a new charter or LEA by the Superintendents' Council without any other changes to this Local Plan shall not require Local Board action.

1. SELPA Involvement with Approval and Renewal of Charters

Prior to approval of a new charter, or renewal of an existing charter, the superintendent or designee of the chartering entity shall consult with the SELPA Director regarding the provision of special education services to students enrolled by the charter school. The petitioner must provide adequate assurances that all eligible students enrolled in the charter school will receive appropriate special education services in accordance with the Southwest SELPA Local Plan. The charter must provide assurances that no student will be denied enrollment in the charter school due to a disability or the charter schools inability to serve the student. The SELPA will be available to provide consultation on the potential fiscal impact and benefits that may be associated with granting the requested charter. An approved charter must delineate the entity responsible for providing special education



instruction and services as required by all LEAs, any anticipated transfer of special education funds between the granting entity and the charter school and any provisions for sharing deficits in funding. These provisions may be included in a Memorandum of Understanding in the event the charter has not developed local policies.

2. Categories of Charter Schools

For the purposes of provision of special education services, charter schools may be deemed either a Local Education Agency (LEA) or a public school within the chartering district. A charter school shall be deemed a public school within the chartering district unless the charter school has complied with all provisions of section 2b (below), including ratification by the Superintendents' Council.

a. Public School within a District.

Charter schools that are deemed public schools within a district will participate in state and federal funding in the same manner as other schools within the chartering district. The chartering district will be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education and designated instructional services in a manner that is consistent with all applicable provisions of state and federal law. The district will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students in the regular program. The charter school, deemed a public school, shall be represented on the SELPA governance body (Superintendents' Council) by the Superintendent of the district granting the charter.

The chartering district will receive all applicable special education funds, as outlined in the SELPA allocation plan. The chartering district will represent the needs of charter schools, like other schools within the district, in the SELPA governance structure. The chartering district will be responsible for ensuring that all eligible students are appropriately served. The district will be responsible for procuring, and funding appropriate special education services, even though the student may live anywhere in the county or adjacent county. The district may contract for these services with public or private educational entities. When a student lives outside the boundaries of the chartering district, the district in which the child lives will have no responsibility to provide services or pay excess costs.

The district and the charter school may enter into agreements whereby the charter school is billed for excess costs associated with providing special education services to identified students, including the administration of special education programs. The charter school may also be held fiscally responsible for a fair share of any encroachment on District general funds that is created by the provision of special education services throughout the district.

b. Charter School as a LEA within the SELPA.

A charter school may apply to become a LEA for the provision of special education services. Application must be made to the SELPA by March 15 of the school year proceeding the school year in which the charter school anticipates operating as a LEA within the SELPA. The Superintendents' Council will make the final determination whether the charter school has the capacity and intent to meet all requirements of a LEA.



SECTION 13.1

The application process for a Charter School will be the same as any other LEA wishing to be a member of the SELPA. It is understood that a State Board of Education authorized charter shall be treated as an LEA in terms of voting on the SELPA Superintendents' Council. (Refer to Section II. f)

The Charter School is required to assure compliance with all requirements of the SELPA Local Plan approved Amendments, and policies outlined in the Local Plan Appendix, including:

- Meet the terms of the agreement regarding assurances of the Local Plan.
- Meet the terms of the agreement regarding Due Process and Complaints.
- Meet the terms of the agreement regarding the Annual Budget and Service Plan.
- Meet the terms of the agreement regarding unreimbursed costs as specified in the Participants' Agreement.
- Meet terms of Participants on the Superintendents' Council.

Once deemed a LEA for the purpose of special education, the charter school will be responsible for and entitled to the following:

- a. Charter schools designed, as a LEA for special education shall have voting rights on the Superintendents' Council of the SELPA.
- b. Participate in the Directors' Council, Program Specialist Council, Community Advisory Committee, and Finance Committee in the same manner as other districts within the SELPA.
- c. Receive state and federal funding for special education in the same manner as other districts within the SELPA per the approved allocation plan.
- d. Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, transportation, nonpublic school/agency placements, inter-intra SELPA placements, due process proceedings, complaints, and attorney fees.
- e. Document that all State and Federal special education funds apportioned to the charter school are used for the sole purpose of providing special education instruction and/or services to identified students with disabilities. Such funds shall be used to supplement and not supplant other sources of federal, state, and local funds apportioned to charter school.
- f. Participate on the Charter School Committee to assure that the unique needs of Charter Schools are made aware to the SELPA. It is understood that the actions and recommendation of the Charter School Committee shall be forward to the Superintendents' Council in the same manner as recommendations from the Directors' Council.

Procedure for Conflict Resolution

Issues concerning governance and administration will be reviewed by the Directors' Council and referred to the Superintendents' Council for resolution. (Consistent with the Local Plan Section II: Governance).



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SECTION IV: EARLY CHILDHOOD SPECIAL EDUCATION**A. Staff Development for Early Education**

The Southwest SELPA program specialists and psychologist, infant and preschool teachers should take leadership in developing staff development activities. The Southwest Special Education Family Resource Center, along with local Early Intervention Councils shall participate in the identification development and implementation of training for parents and professionals. Coordinating with other agencies, including the Regional Centers and CCS, shall be a priority and under the direction of the SELPA Director. A commitment to parent professional collaboration and family centered services is the hallmark of the Southwest SELPA Early Education Programs. Priorities for training include low incidence services, IFSP development, and parent/professional partnerships.

B. Program Operations

The Southwest SELPA shall provide early intervention services consistent with our 1980-81 mandates. In addition, the SELPA shall serve children who have solely a low incidence disability. Enrollment of additional, eligible children up to the programs funded capacity shall occur, per the interagency agreement with local regional centers. The priority for these placements is dually eligible infants.

C. Program Services and Options

The Southwest SELPA program includes center-based programs where parents are part of the program, as well as appropriate siblings under the supervision of the parent. Home based services are also available on a scheduled basis. Early Intervention staff may also provide services in childcare settings within the district of residence.

A full array of related services are provided, including speech and language therapy, audiology, orientation and mobility, occupational and physical therapy, assistive technology, parent counseling, and other related services indicated on the IFSP. In addition, other early intervention services will be provided consistent with the IFSP, including respite care, transportation, nutrition services, parent support, and resources.

Specialized services for low incidence disabilities shall be provided, consistent with Early Start regulations.

D. Ongoing Family Support and Coordination

The Southwest Special Education Family Resource Center shall provide ongoing family support, including transition support as a function of the Resource Center. The SELPA Directors' Councils shall supervise these activities. The SELPA Community Advisory Committee (CAC) and Early Intervention Councils shall advise the SELPA about policies and parent support systems within the area. Parents are encouraged to provide input or ask questions by attending the CAC or visiting the SELPA Family Resource Center; or by contacting their district director of special education or the SELPA director. A parent



involved with Early Start or where child participation in Early Start shall be appointed to the CAC as an Early Intervention representative.

E. Evaluation and Assessments

The SELPA will maintain and train qualified evaluators and assessment teams. In addition, the SELPA will coordinate assessments with the Regional Centers as part of the interagency agreements.

F. Individual Family Service Plans (IFSP)

All identified infants and toddlers shall have an Individual Family Service Plan (IFSP). This document shall replace the IEP for pupils age 0-2. The plan shall contain:

- service coordination
- family priorities and resources
- outcomes
- development and health assessments
- coordination of service plans
- provision of services, responsible agencies, and contact persons
- signatures of the parent approving the plan.

G. Interagency Agreements

An interagency agreement shall be in place between the Southwest SELPA and each regional center within the SELPA. Copies of the agreements are on file at the SELPA Office.

H. Child Find Activities

The Southwest SELPA is committed to extensive child find activities on behalf of member districts and charters. The Southwest SELPA Special Education Family Resource Center is responsible for a full range of child find activities, including distribution of Early Start posters, distribution of a SELPA designed poster, annual letters to parents, letters to physicians and health care providers, attendance at resource fairs, conferences and trainings, and annual notification in newspapers. All programs maintain information and brochures that are available throughout the community. These activities are not limited to Early Start and apply to all ages 0-22.

Parents shall be given a written copy of the IFSP, including Parent Rights and Protections, in the parent's language of choice. The SELPA will coordinate the development of IFSP forms with each Regional Center, in an effort to maintain consistency. The Southwest SELPA shall complete the IFSP process consistent with legal requirements.

I. Service Coordination

The Southwest SELPA shall provide service coordination to all identified infants and toddlers. Service coordination shall be existing staff members who have been trained by the SELPA under the supervision of the SELPA Early Start Coordinator.



J. Transition by Age Three

Per the Interagency Agreements with Regional Centers, a transition plan shall be developed at age two years nine months. For pupils serviced by the Regional Center, the Regional Center service coordinator shall contact the LEA to set up the IFSP for transition. Transition plans shall be incorporated in the IFSP.

K. Dispute Resolution

Parents shall be informed of their rights to due process under the Early Start program at the time of referral and at each IFSP. Disputes between agencies shall employ the procedures as specified in the Interagency Agreements for Early Start Programs between the Southwest SELPA and the Harbor and Westside Regional Centers.

L. Other Public and Private Services

The SELPA coordinates services with the Braille Institute, John Tracy Clinic, CHDP, regional centers, CCS, and private child care providers.

M. Program Operators

Annually, the Superintendents' Council shall designate the providers of early intervention services, with the current provider being Los Angeles County Office of Education. Changes in provider shall be done in accordance with state guidelines. LEA's shall be responsible for all transition services, starting at age 2 years 6 months, per the interagency agreements with regional centers. A member LEA may elect to vendor for services with the Regional Center or California Children's Services (CCS).

In addition to these public options, additional early intervention services shall be provided, via California Children's Services, and per IFSP requirements. Certified nonpublic schools and agencies shall be utilized as necessary and appropriate based upon identified needs as indicated on each IFSP.

N. Preschool Options

Each participating school district operates a continuum of preschool options designed to prepare young children for kindergarten. Placement is based on state and federal eligibility and the identified needs of the preschooler as outlined in the IEP. Parents retain all rights to mediation and due process. Parents are provided written information regarding their rights annually and with each complaint filing or when a change of placement is proposed. A transition IEP is held for students exiting the Early Start program. An initial IEP is held following completion of the original assessment for referred preschoolers.



SECTION V: SELPA MONITORING PLAN

The Southwest SELPA shall be responsible for assisting member districts, charters, JPAs and LEAs in maintaining compliance with applicable state and federal laws.

On at least a quarterly basis, member districts, charters, JPAs and LEAs will be provided state reports in the collection and reporting of required data as part of the California Special Education Management Information System. The SELPA with the support of the Superintendents' Council may elect to complete such monitoring via electronic reporting and IEP software.

The SELPA Director shall provide technical assistance to districts and charters on compliance standards as informed via the California Department of Education and the Office of Special Education programs at the federal level. Ongoing discussion and access to resources shall be facilitated by the SELPA. At the request of a member district, charter or LEA, the SELPA will facilitate a local compliance review process. The goal of all compliance reviews is to resolve issues locally.

In the event the SELPA Director has knowledge of noncompliance and/or concerns regarding compliance trends, he shall inform the Director of Special Education or responsible administrator and the District Superintendent. Such reports may be part of ongoing discussion at Superintendents', Directors', and Charter School meetings. After attempts to resolve issues of noncompliance, the SELPA Director may recommend corrective action plans, re-allocation of funds, and other remedies to the Superintendents' Council. This may include the involvement of the California Department of Education.

It is understood that the SELPA may be required to file a complaint with CDE or OCR in order to protect the rights of eligible students.

The SELPA Director shall follow-up on issues and concerns as reported via the SELPA Community Advisory Committee members and meetings. The SELPA Director shall make ongoing reports to the CAC regarding SELPA-wide compliance monitoring activities by the California Department of Education, including local steps to resolve noncompliance issues.

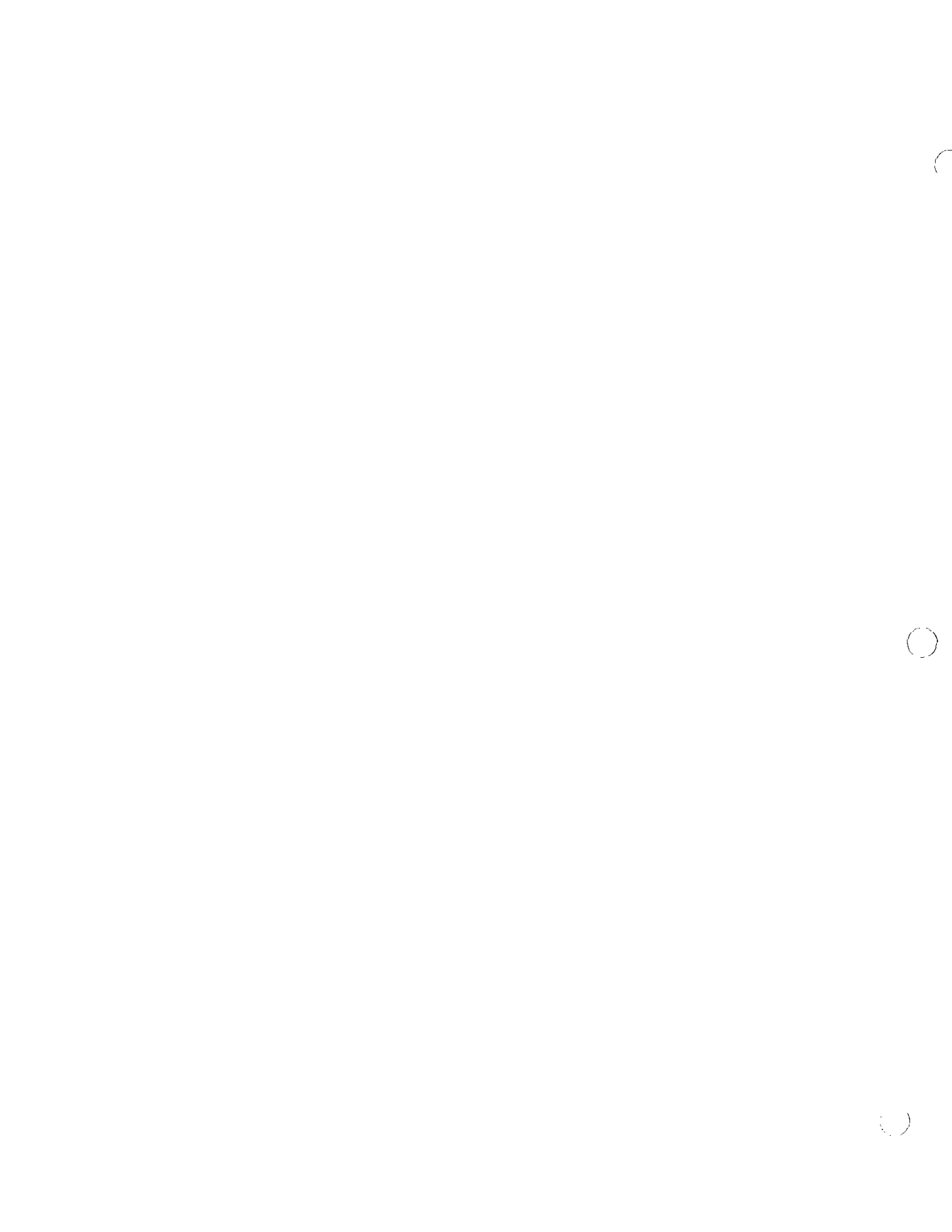
Up to two times each year, the SELPA will "spot-check" an IEP compliance issue, via collaboration with district Directors, charter school representatives and Program Specialists.



**SECTION VI: POLICIES, ADMINISTRATIVE REGULATIONS
AND PROCEDURE MANUALS**

Each member agency of the Southwest SELPA shall approve local policies and administrative regulations to support the Local Plan. Each district, charter school, JPA or County Office in collaboration with the SELPA shall develop a local procedure manual to assist staff to implement local policies and administrative regulations. Copies of the district, charter school, JPA or County Office policies, administrative regulations, and procedure manuals shall be retained at the local level and made available to the SELPA and California Department of Education upon request.

The SELPA with approval of the Directors' Council shall provide an approved Individual Education Plan document and Parent Rights and Responsibilities document for use by member agencies. The SELPA shall also support districts in Child Find activities.





SECTION VII: BEHAVIOR INTERVENTION

Positive Behavior Intervention

The Southwest SELPA and member agencies shall conform to current State and Federal laws and regulations regarding behavior intervention. District level policy and administrative regulations shall apply except for the following specific requirements:

Behavior Intervention Case Managers (BICM) – The SELPA shall maintain responsibility for the certification of any Behavior Intervention Case Manager (BICM) within the SELPA including nonpublic schools and agencies who provide such services. It is understood that an individual who is a Board Certified Behavior Analyst (BCBA) shall be certified as a BICM. In the case of a nonpublic school or agency, the contracting LEA or charter school must request that the individual who holds the BCBA certification is also required to serve as the Behavior Intervention Case Manager (BICM) or other qualified staff must first become certified via the SELPA process.

Certification as a BICM shall remain in effect provided the individual maintains satisfactory public school employment status within the Southwest SELPA and maintains current certification in Nonviolent Crisis Intervention (NCI). This also applies to nonpublic school and agency staff with the school or agency requested to maintain certification with the California Department of Education and adhere to the Master Contract. Copies of all BICM certification documents shall be maintained in the SELPA Office including documentation of training. The SELPA may elect to certify an employee from another SELPA as appropriate.

The Southwest SELPA has approved the Nonviolent Crisis Intervention (NCI) certification as the approved behavior intervention strategy for use with students with serious behavior problems as documented in the Individual Education Plan (IEP), positive behavior plan and/or the behavior intervention plan. The SELPA shall maintain a file of NCI certified individuals and shall provide ongoing NCI training consistent with NCI guidelines.

Behavior Emergency Intervention – Emergency intervention may only be used to control unpredictable, spontaneous behavior, which poses a clear and present danger of serious physical harm to the individual or others, and which cannot be immediately prevented by a response less restrictive than the temporary application of an approved technique used to contain their behavior. All approved techniques in the SELPA must be consistent in Nonviolent Crisis Intervention trainings and procedures. Each member agency shall insure that a copy of the Behavior Emergency Report is written and placed in the pupil's file with a copy to the SELPA office, and an IEP team meeting scheduled to review the Behavior Emergency Report as appropriate.

Behavioral Intervention prohibited by law:

To protect the child from abusive physical or emotional trauma, the following techniques may not be used by any public or nonpublic school or agency, regardless of emergency situation or as part of any plan and school activity. The interventions prohibited are:

- 1) "any intervention that is designed to, or likely to, cause physical pain;"
- 2) "releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;"

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- 3) denial of “sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;”
- 4) procedures such as “verbal abuse, ridicule or humiliation” or others that can be expected to cause “excessive emotional trauma;”
- 5) physical restraint by “a device, material or objects that simultaneously immobilizes all four extremities,” including “prone containment or similar techniques,” unless it is used by personnel who are “trained” in the technique and it is used only as an “emergency intervention;”
- 6) “locked seclusion,” unless it is used as an emergency procedure and then *only* in a facility licensed or permitted by state law to use a locked room;
- 7) Any intervention that leaves a student without “adequate supervision;” and
- 8) “any intervention which deprives the individual of one or more of his or her senses” [3052(1)(1-8)].

Training Requirements – In addition to BICM certification and Nonviolent Crisis Intervention (NCI) training required by staff implementing a behavior intervention plan, ongoing training concerning positive behavior interventions, data collection, and positive reinforcement is a priority. All new special education teachers shall have training as part of the SELPA new teacher training program or at a district level training. Staff required to implement a behavior intervention plan shall receive guidance and training by the Behavior Intervention Case Manager (BICM) on an ongoing basis. Paraeducators shall be trained by the credentialed special education teacher serving as the case manager and responsible for the student’s IEP. School psychologists shall be available to provide training and technical assistance regarding the development and implementation of behavior in general including social emotional development. If the school psychologist and credentialed special education teacher is also certified as a BICM and/or is certified as a Board Certified Behavior Analyst (BCBA), then they shall also be responsible for training related to a behavior intervention plan where serious behaviors may occur.

Reporting Requirements and Data Collection – Each behavior intervention plan shall determine the type, frequency, and nature of the data to be collected and analyzed by the BICM and the IEP team. This applies to both Positive Behavior Plans and Behavior Intervention Plans.

The IEP team or member of IEP shall determine the need for ongoing monitoring of the plan. For a behavior intervention plan involving serious behaviors, a quarterly review of data is recommended.

In the event a behavior emergency incident occurs where the use of an approved crisis intervention by utilized staff, a Behavior Emergency Report (BER) shall be completed within 24 hours and filed with the appropriate administrator as well as copies provided to the appropriate IEP team member and the Southwest SELPA. Annually, at the request of the California Department of Education, the SELPA shall report the number and type of Behavior Emergency Reports reported during a given school year. Copies of this report shall be on file at the SELPA Office. A copy of the Behavior Intervention Report shall remain in the student’s special education file.

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Southwest SELPA Civility Guidelines

The purpose of these guidelines is to promote mutual respect, civility and orderly conduct among SELPA employees, parents and the public. The SELPA is committed to keeping schools and offices free from disruptions and preventing unauthorized persons from entering school or SELPA grounds and/or disrupting school activities. These procedures are intended to maintain, to the extent possible and reasonable, a safe and harassment-free work place, for staff, students and parents. The Southwest SELPA expects positive and civil communication between staff, students, parents and the community and discourages volatile, hostile or aggressive behaviors that cause fear, intimidation and/or disruptions.

Disruptions

1. The use of profanity or obscene or threatening language or loud and inflammatory language which may reasonably cause disruption or violent reaction is prohibited between staff, parents, students and community while on school grounds, any District property, or during school activities. The prohibition includes phone conversations, letters, memoranda or emails.
2. Any individual who disrupts or threatens to disrupt school/office operations; threatens the health or safety of students or staff; willfully causes property damage; uses loud and inflammatory language which can reasonably be expected to lead to substantial disruption or provoke a violent reaction; shall be directed to leave the SELPA property or activity promptly by the SELPA administrator or his/her designee.
3. Employees are directed to end all conversations, whether by phone, in writing or email with individual(s) who continue to violate these procedures after the employee notifies the individual(s) of the violation. The employee shall provide a written report of the incident to the administrator in charge of the site or activity, or his or her designee.

Safety and Security

4. The SELPA Director or designee will ensure that a safety and/or crisis intervention techniques program is provided in order to raise awareness on how to deal with these situations if and when they occur.
5. When violence is directed against an employee, or theft against property, employees shall promptly report the occurrence to LACOE and complete an Incident Report. Employees and supervisors should complete the Incident Report and report to law enforcement any attack, assault or threat made against them on school/SELPA premises or at school/SELPA-sponsored activities.
6. An employee, whose person or property is injured or damaged by willful misconduct of a student, may inquire legal actions to the LACOE legal council.

Documentation

7. When it is determined by staff that a member of the public is in the process of violating the provisions of these procedures, an effort should be made by staff to provide a written copy of these procedures, including applicable code provisions, at the time of occurrence. The employee will immediately notify his/her supervisor and provide a written report of the incident. The administrator will then take appropriate action.

California Education Code

44811, in part. (a) Any parent, guardian, or other person whose conduct in a place where a school employee is required to be in the course of his or her duties materially disrupts classwork or extracurricular activities or involves substantial disorder is guilty of a misdemeanor. (b) A violation of subdivision (a) shall be punished as follows:

- (1) Upon the first conviction, by a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.
- (2) Upon a second conviction, by imprisonment in a county jail for a period of not less than 10 days, and not more than one year, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000). The defendant shall not be released on probation, or for any other basis until he or she has served not less than 10 days in a county jail.
- (3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than 90 days, and not more than one year, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000). The defendant shall not be released on probation, or for any other basis until he or she has served not less than 90 days in a county jail.



SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA

GUIDELINES FOR SCHOOL BASED/CLASSROOM OBSERVATION**General policies:**

- ◆ It is the policy of the SELPA to limit outside observations of school based programs for the following reasons:
 - Confidentiality.
 - Impact on the learning environment.
 - Time away from task by staff.
 - Additional stressors in the learning environment.
 - School safety.
- ◆ Individuals requesting an observation shall conform to the policies and procedures of the host district. Generally, all observations are scheduled in advance, with the reason for the observation, qualification (position) of the person making the observation, and specific standardized observational measures to be used (if any) shared with the school contact person or administrator. For pupils with disabilities, the District Director of Special Education shall have the authority to grant/deny requests. By knowing the specifics of the observation, school staff can schedule the observation at a time where student issues, concerns can most likely be seen.
- ◆ All observations are hosted by a district staff person of a similar background/position. The district staff person shall also make observational notes of the same visitation.

Limitations:

- ◆ Observation is for a specific pupil, and information about other children cannot be shared, nor used as a basis for placement, diagnosis, or imperative data specific to other children.
- ◆ Specific areas of concern that form the basis for the observation must be shared with the school administrator or school contact person prior to the observation. If a specific standardized observation measure is to be used, the name of the test must be shared along with documentation by the parent authorizing use of the testing instrument/observational checklist.



- ◆ Generally, observations are for 30 minutes.
- ◆ In no way may the observation of a specific child be used as an evaluation of a credentialed staff person, teacher, or other professional. All evaluations are subject to district policies. In the event an observer has any comments regarding the performance of any staff person, either positive or negative, this information shall not be included in any written report and shall be provided to the supervisor as necessary and appropriate. District complaint procedures are available upon request.
- ◆ It is understood that this SELPA Policy is superseded by any approved district policy.

Interagency responsibilities:

- ◆ It is understood that Regional Center, Department of Mental Health, and/or California Children Services may have specific needs to observe pupils at school. These guidelines are in addition to any such guidelines contained in the interagency agreement with each agency. School districts shall collaborate to assure that the observation is completed within the guidelines and within a reasonable period of time for the original request. All concerns at a given school shall be referred to the District Director of Special Education. Any concerns of a given district, shall be referred to the SELPA Director.

To the maximum extent possible, agencies are asked to obtain required observational information from opportunities outside the school program and school environment.



INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)

Each LEA within the SW SELPA has Board Approved IEE policies and procedures when parents request an Independent Educational Evaluation. The follow are guidelines relative to these policies.

Definitions

Independent educational evaluation (IEE) means an evaluation conducted by a qualified evaluator who is not employed by the school LEA of residence.

Public expense means that the School LEA pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Policy and Procedures

Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the LEA and the LEA does not pursue its option to file a request for a due process hearing with the California Office of Administrative Hearings to establish the appropriateness of its assessment.

Parents must indicate in writing to the LEA or inform the LEA at an IEP meeting that they:

1. Disagree with the LEA's evaluation and
2. That they are requesting an IEE at public expense.

The LEA may ask for the parent's reason(s) for disagreeing with the school LEA's evaluation, but the parent is not required to provide those reasons. The LEA may offer to conduct another evaluation of its own with parent consent. If the parent does not agree to another LEA evaluation, the LEA must respond to the parent's request by ensuring an IEE is provided at public expense in a timely manner or promptly submit a request for a due process hearing in accordance with this policy. The LEA may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation. Parents may only request one publicly funded independent evaluation for each evaluation completed by the school LEA. Once the parent communicates his/her disagreement with the school LEA's evaluation and requests an IEE at public expense in writing or at an IEP meeting, the following procedures will be followed:

1. The LEA's administrator responsible for special education will be notified.
2. The LEA will provide to the parents a copy of their policy and procedures including criteria for IEEs, the option for an alternative LEA examiner (Option A below), and options for an IEE at public expense (Options B,C, and D below) as follows:
 - A. A LEA staff member from another school
 - B. A staff member from another LEA in the SELPA



- C. A staff member from another SELPA within the Greater Los Angeles Area
- D. A nonpublic agency provider
- E. District contracted provider

3. The parents will communicate to the LEA, in writing, their preferred option.
4. The LEA will determine whether the LEA will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an IEE.

The above procedure must be completed in a timely manner. Without unnecessary delay, the LEA must decide whether to initiate a due process hearing to establish that the LEA's evaluation is appropriate, or must ensure that an IEE is provided at public expense.

If the LEA agrees to provide an IEE:

- An assessment planning meeting will be convened to develop an assessment plan which specifies those areas to be evaluated and who will complete each assessment in accordance with the LEA's policy. The parent(s) should be encouraged to participate in the Assessment Planning Team. Within 15 calendar days of the decision to obtain an IEE, the parents will be sent an *Assessment Plan* for their review and consent.
- Upon receipt of the signed written consent to assess, the LEA will arrange for the completion of the IEE.
- Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the school LEA.

If the LEA initiates a due process hearing and the final decision is that the LEA's evaluation is appropriate, the parents still have the right to an IEE, but not at public expense.

If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

- A. Must be given appropriate consideration by the LEA, in any decision made with respect to the provision of FAPE to the student; and
- B. May be presented as evidence at a due process hearing regarding that student.

If an administrative law judge (ALJ) orders an IEE in connection with a due process hearing, the cost of the evaluation must be at the LEA's expense.

Time Line Regarding Independent Education Evaluation



In the interest of consistency between public and private evaluations, the parents are encouraged to choose an option for additional assessment offered by the LEA within 15 calendar days of receiving the options.

After the parent chooses an option for additional evaluation and signs the *Assessment Plan*, the LEA will initiate a contract with the evaluator within 15 days of receipt of parental consent.

The LEA will contract with a qualified independent evaluator who is able to provide a written report for an IEP within 60 days of the date of contracting for an evaluation. If the selected candidate cannot meet the time line, the LEA will inform the parent and ask for agreement to an extension of time or selection of another option.

LEA Criteria

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluator, minimum qualifications of the evaluator, and cost containment criteria, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the LEA uses when it initiates an evaluation.

If the LEA observed the student in conducting the evaluation with which the parents disagree or if its assessment procedures allow in-class observations, the independent evaluator will be provided with an equivalent opportunity to observe the student in the current educational setting, and to observe the LEA's proposed setting, if any. This opportunity shall also be provided if the parents obtain an evaluation at private expense.

The LEA shall define the nature and scope of an independent evaluator's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, LEA personnel who will participate in the observation and restrictions on student/teacher interactions.

Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness, under the specific facts of a given case, of using an evaluator meeting other qualifications. (Ed. Code 56320 (b) (3))

| Type of Assessment | Qualifications |
|----------------------|--|
| Academic Achievement | Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist |



| | |
|---|---|
| | Licensed Clinical Psychologist |
| Adaptive Behavior | Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist |
| Assistive Technology | Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher |
| Auditory Acuity | Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist |
| Behavioral | Board Certified Behavior Analyst Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist Licensed Psychiatrist |
| Cognitive | School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist |
| Health (including neurological) | Licensed Physician Nurse |
| Motor | Licensed Physical Therapist Registered Occupational Therapist Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher |
| Occupational Therapy | Licensed Occupational Therapist |
| Speech and Language | Credentialed or Licensed Speech/Language Pathologist |
| Social/Emotional | School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist Licensed Psychiatrist |
| Visual Acuity/Developmental Vision | Licensed Ophthalmologist Optometrist |
| Functional Vision | Credentialed Teacher of the Visually Impaired |
| Vision Perception | Credentialed Special Education Teacher School Psychologist |
| Transition | Credentialed Special Education Teacher |



Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

The cost of a psycho-educational IEE shall be determined by each LEA's Board approval process. A school LEA will not necessarily be required to fund the attendance of the assessor at the IEP team meeting convened to consider the IEE.

When insurance will cover all or partial costs of the IEE, the school LEA will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

- A. A decrease in available lifetime coverage or any other benefit under an insurance policy,
- B. A increase in premiums or the discontinuance of the policy or
- C. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the LEA reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

- Provide protocols of all the assessments, and
- Provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their assessment information and results to the LEA prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.

LEAs should consider that contracting with a NPA for both assessment and services could present a conflict of interest.

Circumstances Resulting in Evaluations Not Funded by the LEA

Because the parent must first disagree with the LEA's evaluation in writing, the LEA does not have an obligation to reimburse parents for privately obtained evaluations completed prior to the date that the LEA's evaluation is completed and discussed at an IEP Team meeting. The LEA is not



obligated to reimburse parents for privately obtained evaluations if the parent disagrees with the LEA's evaluation and independently seeks a private evaluation without first notifying the LEA in writing of their intent to pursue an IEE. Such notice should state the reasons for the parents' disagreement with the LEA's assessment, and should include a request for an IEE from the LEA.

EDUCATION CODE

56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements

56506(c) Due process rights of pupil and parent

CALIFORNIA CODE OF REGULATIONS, TITLE 5

3022 Assessment Plan.

UNITED STATES CODE, TITLE 20

1415(b) (1)

CODE OF FEDERAL REGULATIONS, TITLE 34

300.502 Independent Educational Evaluation

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*ABC/Norwalk-La Mirada SELPA • Antelope Valley SELPA • Compton SELPA • Downey-Montebello SELPA
East San Gabriel Valley SELPA • Foothill SELPA • LACOE SELPA • Long Beach SELPA • Los Angeles USD SELPA
• Mid-Cities SELPA • Pasadena SELPA • Pomona USD • Puente Hills SELPA • Santa Clarita Valley SELPA • Southwest
SELPA • Tri-City SELPA • West San Gabriel Valley SELPA • Whittier Area Cooperative Special Education Program*

GLAAS Private School Agreement

This is the agreed upon countywide process for meeting the needs of students with disabilities placed in private schools by their parents as per Individuals with Disabilities Education Act (IDEA):

1. District of location (where private school is located) is responsible for "Search and Serve" and for completing "timely and meaningful consultation" with local private schools. The district of residence (where the family lives) is responsible for referring the family to the district of location. At the beginning of this process, if the family states that the student will be attending the public schools in the future, the assessment will be completed by the district of residence.
2. District of location (DOL) receives information from local private schools regarding pupils with suspected disabilities. A release of information is obtained from the parent for the private school and the district of residence (DOR). Upon receipt of the release of information, DOL will notify DOR.
3. If a SELPA/District outside Los Angeles County is deviating from the GLAAS agreement, contact your local SELPA Director for assistance.
4. District of location (DOL) completes assessment and determines eligibility.
5. District of location (where the private school is located) holds an IEP meeting to determine eligibility. The IEP documentation shall include the present levels of performance, eligibility statements, parent concerns and assessment reports. Goals and objectives, placement, services and accommodations/modifications will not be developed on the IEP. DOR may attend and collaborate at the IEP meeting.
 - If parent agrees to attend public school, the district of residence develops an IEP. If the DOR is not in attendance, the attached fax sheet will be used to notify the DOR of the need for an IEP. The DOR has 30 days to offer FAPE and develop the IEP goals.
 - If parent declines the offer of public school, DOL continues the private school process.
6. DOL offers an Individual Service Plan (ISP), also known as a Private School Service Plan (PSSP), and reviews the plan annually as appropriate. The specific SELPA plan will be based on timely and meaningful consultation with the private schools in the area. The DOL must enter private school students in their district CASEMIS data.
7. If at any time, the parent indicates that they would prefer to attend a public school, the DOR will be contacted to hold an IEP and provide an offer of FAPE.
8. If student continues to be a private school student, district of location (DOL) will conduct triennial to establish continuing eligibility.

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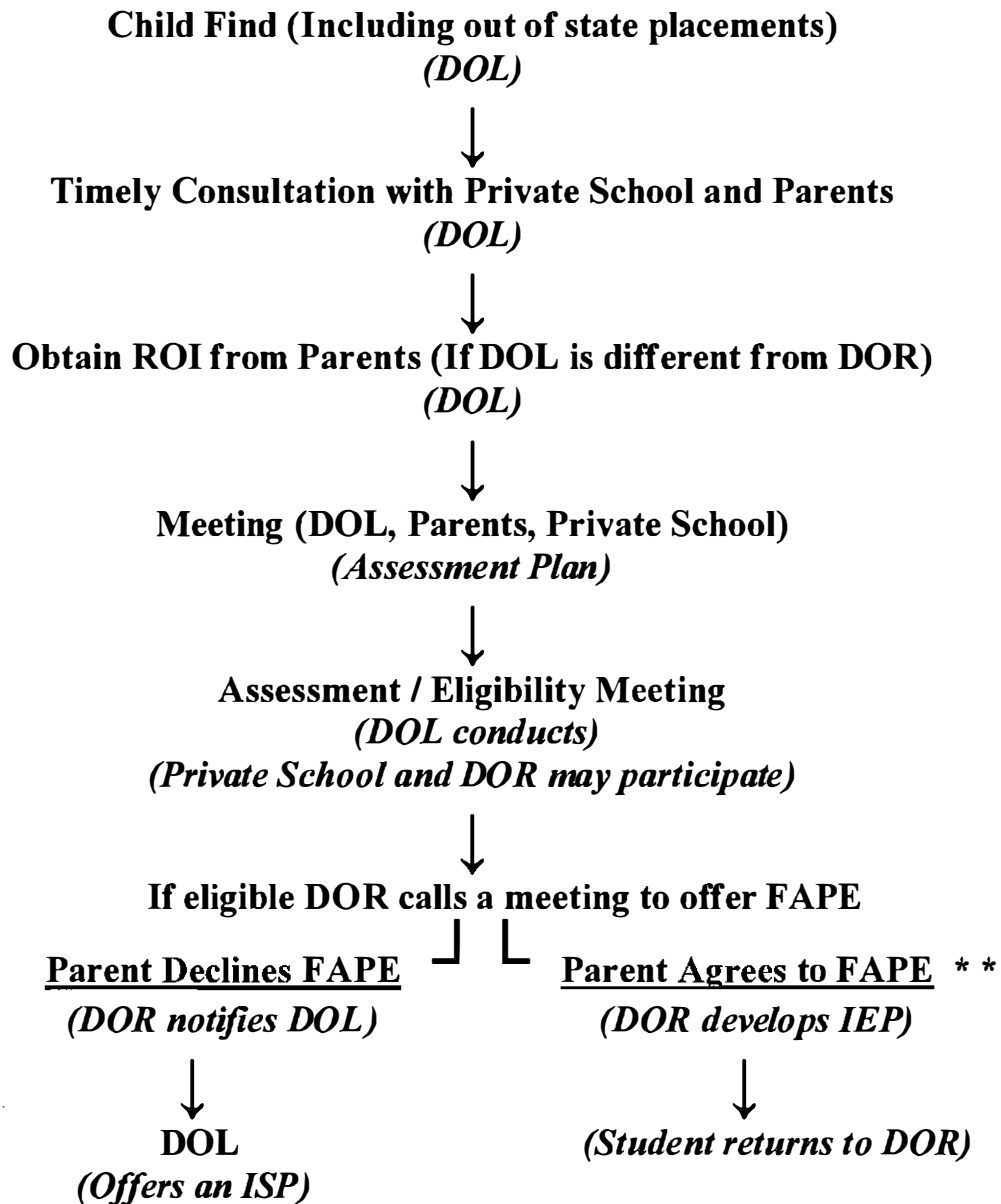
9. Students of preschool age who attend a private school will be served by their district of residence (DOR) through the IEP process.
10. Students of kindergarten age but who continue to be enrolled in a preschool program in a private school will be served by their district of residence (DOR) through the IEP process.
11. Students of kindergarten age and who are enrolled in a private kindergarten program will be served by the district of location (DOL) through the Individual Service Plan (ISP).
12. For private schools located in Los Angeles Unified School District, contact Karen Harwood at 213-241-8166.

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PRIVATE SCHOOL PROCEDURES
FLOW CHART



* Parties agree to waiver the cost of the assessment.

** DOL may attend and collaborate at the IEP meeting.

DOL will report to CASEMIS:

of students assessed and found eligible.

of students receiving ISP's



**PRE-SCHOOL AND KINDERGARTEN AGE CHILDREN
ENROLLED BY PARENTS IN PRIVATE SCHOOL**

**Pre-school Age Children
Enrolled in Private Pre-School**



DOR serves through the IEP process

**Kindergarten Age Children
Enrolled in Private Pre-School**



DOR serves through the IEP process

**Kindergarten Age Children
Enrolled in Private Kindergarten Program**



DOL serves through the PSSP process

ACRONYMS

**DOL = District of Location of the Private School
DOPS = District of Location of the private School
DOR = District of Residence of the Parents
PSSP = Private School Service Plan (ISP)
ROI = Release of Information**

**Adapted from; “*The Private School Memo of Understanding.*”
Greater Los Angeles Area SELPA’s (GLAAS) as per IDEA 2004.**



**SOUTHWEST SPECIAL EDUCATION
LOCAL PLAN AREA**

Certification of Parental Refusal of FAPE

TO: _____ (DOL's name)

I/we, the parent/s of _____ (Student's name) certify that I/we am/are not planning to enroll our child in a public school. Therefore, I/we are refusing the offer of an IEP to provide a "Free, Appropriate, Public Education" to my/our child by the _____ (DOR's name).

I/we will continue my/our child's enrollment in _____ private school. I/we will accept the Service Plan that will be prepared by _____ (DOL's name), which is the district where the private school my/our child attends is located.

I/we have received the SW SELPA Notice of Parents' Rights. We understand the contents of the document and of my/our option to place _____ (Student's name) in a public school at any time in the future.

Parent's Name (Print, please)

Parent's Name (Print, please)

Parent's Signature

Parent's Signature

Date

Date



SURROGATE PARENT PROCEDURES

BASIC CRITERIA FOR APPOINTING A SURROGATE PARENT

The Surrogate Parent role on the IEP team is to represent the rights of a student with special needs in all educational matters related to the provision of a free and appropriate public education (FAPE). It is the responsibility of each LEA to ensure that the rights of a child are protected in determining the need for, and assigning, a surrogate parent whenever the child is referred or eligible for special education and either:

- (1) No parent can be identified;
- (2) The LEA after reasonable efforts, cannot locate the parent;
- (3) The child is a ward of the court of the State under the laws of that State;
- (4) The child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act.

RECRUITMENT OF VOLUNTEERS

The SELPA Administrator and district directors will work with community agencies and organizations, both public and private, to secure applicants for the position of surrogate parent volunteer.

The SELPA Administrator will coordinate activities of the SELPA and LEAs in seeking volunteers.

Each volunteer interested in the surrogate parent position must complete a surrogate parent application form.

SCREENING OF APPLICANTS

The following areas must be addressed by the SELPA Administrator in the screening process for the appointment of surrogate parents.

- (1) The volunteer must have an active interest in the students to be served.
- (2) The volunteer must have a willingness to learn the requirements of special education.
- (3) The volunteer must have no criminal background (arrest/conviction) that includes a misdemeanor involving abuse or neglect or others, or contributing to the delinquency of minors, or any felony conviction. Misdemeanor convictions within the past five years will be considered on a case by case basis.

- (4) The volunteer must have a valid *California Drivers License* and provide proof of insurance or demonstrate the ability to fulfill all duties of a surrogate parent without needing to drive.
- (5) The volunteer must be willing to be fingerprinted, if deemed necessary by the SELPA Administrator or district director.
- (6) The volunteer must not have a conflict of interest, including financial, with the specific student represented, or other interests, including institutional or other biases that might restrict or interfere with his or her ability to advocate for all the services required to ensure a free appropriate public education for the assigned individual with exceptional needs.
- (7) The volunteer must not be an employee of an agency that has a direct relationship to the student, e.g., school employees, probation officers, social workers, group home providers, or others who may have a conflict of interest.
- (8) The volunteer should display sensitivity to the cultural, socio-economic and individual needs of the student served.

APPOINTMENT OF SURROGATE PARENT

- (1) Upon satisfactory completion of the surrogate parent training session and upon passing the SELPA screening process, the surrogate parent volunteer shall be assigned to one or more students, using the following criteria:
 - Cultural and socio-economic sensitivity.
 - Location, based on reasonable travel time for the surrogate parent.
 - Ability to understand and relate to the disability and needs of the student.
 - The interest of the surrogate parent volunteer.

TRAINING

Prior to assigning a surrogate parent to represent a student, the SELPA Administrator will arrange for training for the surrogate parent. Training shall include, but not be limited to, the following topics:

Special Education and Related Services

1. Special Education programs available within Southwest SELPA as well as other educational placement options.
2. Southwest SELPA Policies.

3. Federal and State laws and regulations regarding Special Education.
4. Parent and student rights under federal and State Special Education laws and regulations.
5. Surrogate parent responsibilities, including participating in Individualized Education Program (IEP) meetings and suspension/expulsion proceedings for the assigned student.
6. Conflicts of Interest.
7. Visiting with the student's classroom(s) and consulting with the student's teacher(s) and personnel providing related services.
8. Visiting with the student outside the educational environment.
9. Consulting with the student's foster parent(s), group home provider/staff members, or the person(s) with whom the student resides.
10. Ethical concerns, including the responsibility to hold all information regarding the assigned student in confidence.
11. The Community Advisory Committee (CAC) and parent support groups.
12. Child and adult abuse reporting laws.

Training Sessions

Training sessions shall be provided at convenient locations, and shall be scheduled on days and at times that are suited to meet the needs of the surrogate parent volunteers.

The SELPA Administrator will develop a post-test interview to be administered to all prospective surrogate parent volunteers following the training session.

The SELPA Administrator shall maintain records of the dates surrogate parents received training so that update/review training may be provided biannually for the surrogate parents.

ACCESS TO THE STUDENT

The surrogate parent must meet with the student under the supervision of the student's group home provider, foster parent, person with whom the student resides, placing agency representative, or designated school staff. Exceptions to this procedure are made by the SELPA Administrator/district director/designee.

School personnel shall make every reasonable effort to ensure that the surrogate parent has access to the student as it relates to the student's educational needs.

ACCESS TO STUDENT RECORDS

The surrogate parent retains the same rights as a parent/legal guardian to access student records. He or she must request copies of school records and other records in the same manner that is required by the parent/legal guardian.

Due to the continual need for confidentiality, when a surrogate parent discontinues representing a specific student, he or she must return to the district all copies of the student's records in his or her possession.

USE OF INTERIM SURROGATE PARENTS

When any of the following conditions prevail, the Director of Special Education of the LEA in which the student is educated, shall notify the SELPA Administrator, within two working days, of the need for the assignment of an interim surrogate parent:

- If no parent is immediately available, and the student has been referred for an assessment ; or
- The student transfers into a Southwest SELPA and is provided an interim placement for special education and related services.

The LEA Director shall assign a surrogate parent, within five working days, depending upon the availability of surrogate parents.

The LEA Director shall terminate the services of the interim surrogate parent when/if any of the following exist:

- The student, after assessment, is found to be ineligible for special education and/or related services. The Director of Special Education of the LEA in which the student is educated shall notify the SELPA Administrator, within five working days, that the student was determined to be ineligible for special education.
- The student is determined to be ineligible for the services of a surrogate parent.
- A permanent surrogate parent is appointed for the student.

EVALUATION OF SURROGATE PARENTS

Evaluations of the surrogate parent shall be performed by the Director of Special Education of the LEA in which the student is educated, in conjunction with the SELPA Administrator. Each surrogate parent should be evaluated at a minimum of annually. Evaluations can be conducted at more frequent intervals, at the discretion of the Director of Special Education of the LEA in which the student is educated, or at the discretion of the SELPA Administrator, if it is suspected that the surrogate parent is not adequately performing his or her duties.

TERMINATION OF SURROGATE PARENT APPOINTMENT

Only the SELPA Administrator/LEA Director may terminate a surrogate parent's appointment. The SELPA Administrator shall terminate the appointment of a surrogate parent, when the Director of Special Education of the LEA in which the student is educated notifies the SELPA Administrator of any of the following conditions:

1. Notice is received from the court that the student is no longer a dependent or ward of the court, under Section 300.601 or 602 of the Welfare and Institutions Code. A copy of said notice should be forwarded to the SELPA Administrator within two working days of receipt.
2. Notice is received from the court that the right of the parent or legal guardian to make educational decisions for the student, who is a ward, has been reinstated. A copy of said notice should be forwarded to the SELPA Administrator within two working days of receipt.

3. The student reaches the age of majority, as documented by the LEA.
4. The student exits from the special education, as documented by an IEP team.
5. The parent or guardian appears and assumes the responsibility for making educational decisions for the student.
6. The surrogate parent receives an unsatisfactory evaluation, utilizing the SELPA evaluation process, and displays no apparent improvement following the evaluation. Termination, based upon the unsatisfactory evaluation, shall be at the discretion of the SELPA Administrator.
7. The surrogate parent is alleged to have committed a misdemeanor involving the abuse or neglect of others or contributing to the delinquency of minors, or any felony.
8. A surrogate parent is found to have a conflict of interest:
 - If the SELPA Administrator determines that a conflict of interest exists, it shall be documented and the LEA Director of Special Education shall be notified of same within two working days.
 - The surrogate parent takes action, which threatens the safety or well being of the assigned student.

The LEA Director of Special Education shall investigate the allegations of such action and report the results of said investigation to the SELPA Administrator as soon as possible, but no later than 30 days following the original report of the allegations.

The SELPA Administrator shall determine whether the surrogate parent's appointment should be terminated, based on the results of the investigation.

When the SELPA Administrator receives information indicating the possible need to terminate a surrogate parent, the SELPA Administrator shall consider the validity of the information and make a decision to terminate or not terminate within five working days.

If the SELPA Administrator determines that the surrogate parent should be terminated, the SELPA Administrator shall notify the surrogate parent within five working days of such decision.

Notice of termination shall be by documented phone call or certified mail, with return receipt requested.

At the discretion of the SELPA Administrator, the terminated surrogate parent may be granted the right to discuss the termination with the SELPA Administrator with the possibility of eventual reinstatement.

A surrogate parent who has been terminated may protest the termination in writing to the SELPA Administrator, whose decision regarding the appeal shall be final.

A student, whose surrogate parent has been terminated, shall be so notified by the LEA Director of Special Education in which the student is educated.

A student, who remains eligible for the services of a surrogate parent, shall be assigned an interim or new surrogate parent within two working days or as soon as possible.

CONFLICT RESOLUTIONS AND APPEALS

Conflicts must be brought to the attention of the SELPA Administrator, who will work with all parties involved, to bring resolution to the conflict. The SELPA Administrator will have the final authority in all appeals and conflicts.

HOLD HARMLESS

The SELPA and the surrogate parent shall enter into a signed agreement of that with a hold harmless clause.

NOTE: For additional information, refer to California Department of Education's reference document *Surrogate Parents in California Special Education: An Overview* included in this manual and available at www.cde.ca.gov/sp/se/sr

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SURROGATE PARENTS IN CALIFORNIA SPECIAL EDUCATION: AN OVERVIEW

Acknowledgments

The prepublication release of the *2008 Surrogate Parents in California Special Education: An Overview* was written and reviewed by California Department of Education (CDE) staff.

The federal Individuals with Disabilities Education Act (IDEA) requires assurances from states receiving federal funds for the provision of special education that surrogate parents will be appointed for pupils with disabilities who are without parental representation in special education procedures.

In compliance with this federal mandate, California *Government Code* Section 7579.5(m) requires the California Department of Education to "develop a model surrogate parent training module and manual that shall be made available to local educational agencies."

The revised edition of *Surrogate Parents in California Special Education: An Overview* (2008) updated the 1991 manual. Minor revisions were made in 2012. The manual is intended for use as a reference to assist education agencies to develop and implement procedures for parental representation that comply with federal law.

The *Surrogate Parents in California Special Education: An Overview* was made available by California Services for Technical Assistance and Training (CalSTAT), at the Napa County Office of Education.

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This document can also be downloaded free of charge from the CDE Web site: <http://www.cde.ca.gov/sp/se/sr> Look under publications for *Surrogate Parents in California Special Education: An Overview*.

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Surrogate Parents in California Special Education: A Legislative Overview

In 1975, Congress enacted the Education of All Handicapped Children Act (EAHCA) (20 *United States Code* Section 1400, et seq., Public Law 94-142) to support states and localities in protecting the rights of, meeting the individual needs of, and improving educational results for infants, toddlers, children, and youths with disabilities and their families. Among the protections this law introduced was the assurance that a surrogate parent would be provided for a student when necessary (Public Law 94-142, Section 5(a)). An individual was to be appointed as a surrogate parent when no parent could be identified, located, or if the student was a ward of the State. The role of the surrogate parent was to represent the student in all matters relating to the identification, evaluation, educational placement and provision of a free appropriate education (*ibid.*). In 1990, California provided more specific direction for the appointment of a surrogate parent by enacting Assembly Bill (AB) 1528, which prohibited the appointment of individuals who would have a conflict of interest in representing the child. AB 1528 enacted California *Government Code* Section 7579.5 (Stats. 1991, c. 182, Section 5). At the federal level, the EAHCA was replaced by the Individuals with Disabilities Education Act in 1997 (IDEA '97) which established the rights of students, from birth through twenty-one years of age, to a free appropriate public education (Public Law 105-17).

In 2004, IDEA '97 was reauthorized and signed into law, revising certain requirements related to the assignment of surrogate parents (20 *United States Code* Section 1415(b)(2)(A) and (B); Public Law 108-446). As a result of this reauthorization, IDEA '97 is now referred to as "IDEA 2004."

This manual was developed to assist local educational agencies (LEAs), placing agencies, and other service providers in the implementation of state and federal requirements pertaining to the appointment of surrogate parents. Explanations of state and federal mandates about parental involvement, educational entitlements, and procedural safeguards for individualized education programs (IEPs) are contained in this manual as required by California *Government Code* Section 7579.5(m).

This manual covers the major considerations under state and federal laws that should be applied by LEAs when surrogate parent appointments are made:

- the identification of children in need of a surrogate parent
- the appointment process
- the rights, responsibilities and requirements of surrogate parents
- the recruitment of surrogate parents
- the training of surrogate parents
- the responsibilities and roles of agencies in this program

The goal of this manual is to develop a common body of information for local policy makers, administrators from both educational and social service agencies, and

coordinators of local training programs who will implement or participate in the appointment and training of surrogate parents.

This manual also provides references to statutes and regulations, sample forms, documents containing other agency guidelines, and charts that outline the suggested appointment process.

The information in this document is not binding on local educational agencies or other public agencies but is provided to give guidelines for exemplary surrogate parent programs. Compliance with these guidelines is not mandatory except for the statutes, regulations, and court decisions that are referenced in the text.

Overview of the Surrogate Parent Mandate

This section provides an overview of state and federal legal mandates and describes surrogate parents and other persons who have legal authority to act on a child's behalf in the special education process.

Current State and Federal Law

Federal law requires state, intermediate, and local educational agencies to establish and maintain procedures for assigning a surrogate parent to a student whenever the location of the biological parents or guardian of the child is not known or available or the child is a ward of the state. The surrogate parent must not be an employee of any public agency involved in the education or care of the child (*20 United States Code* Section 1415(b)(2)(A), *34 Code of Federal Regulations* Section 300.519(d)(2)(i)).

Federal implementing regulations provide legal definition of a "surrogate parent" and stipulate the requirements that must be met when a public agency selects and assigns a surrogate parent for a child with no identifiable parent or to a child who is a ward of the state. State law provides that "surrogate parent" shall be defined as it is defined in the IDEA regulations cited above. (*34 Code of Federal Regulations* Section 300.519(d).) A surrogate parent may represent a person with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individual education program, and in other matters relating to the provision of a free appropriate education to the individual (*California Education Code* Section 56050, *34 Code of Federal Regulations* Section 300.519(g)).

Who Can Be A Surrogate Parent?

A surrogate parent must be an adult appointed by the LEA to represent a student whenever the student does not have parental representation and has been referred for, or is currently being served in, special education (*California Education Code* Section 56050; *California Government Code* Section 7579.5(c); *34 Code of Federal Regulations*

Section 300.519(d)(2)). State and federal law require that each person appointed as a surrogate parent shall:

- not be an employee of a public or private agency involved in the education or care of the child
- have no interest that conflicts with the interests of the child he or she represents
- have knowledge and skills that ensure adequate representation of the child

An LEA shall, as a first preference, select a surrogate who is a relative caregiver, foster parent, or court-appointed special advocate. If none of these is willing or able to serve, another person may be appointed to be the surrogate (*California Government Code* Section 7579.5(b)).

The basic premise is that surrogate parents will be persons with appropriate knowledge and skills required to adequately represent students served by special education who do not have parent representation in educational matters.

When Must A Surrogate Parent Be Appointed?

California Government Code Section 7579.5 states that the LEA must appoint a surrogate parent for a child with a disability under the following circumstances:

- The biological or adoptive parents cannot be identified or located after reasonable effort.
- The child has a court-appointed person authorized to make educational decisions.
- The child's court-appointed "parent" is unwilling or unable to serve as the surrogate parent.

It is important to know which persons fall within the definition of "parent" because the LEA may not appoint a surrogate parent for a child who has a parent. For this purpose, the federal regulations implementing IDEA define "parent" as a biological or adoptive parent of a child or a specific person authorized to act as the "parent" by virtue of a court order (*34 Code of Federal Regulations* Section 300.30(b)(2)). Such persons could include guardians, foster parents, caregiver relatives, or other court-appointed child advocates (*34 Code of Federal Regulations* Section 300.30(a)(2)-(4)).

California Education Code Section 56028 uses slightly different language. "Parent" includes any person having legal custody of a child, any adult pupil for whom no guardian or conservator has been appointed, a person acting in the place of a natural or adoptive parent including a grandparent, step-parent, or other relative with whom the child lives, or a foster parent if the authority of a parent to make educational decisions on the child's behalf has been specifically limited by court order. "Parent" also includes a parent surrogate. "Parent" does not include the state or any political subdivision of government and a non-public, non-sectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child (*California Education Code* Section 56028(b)).

School administrators are encouraged to familiarize themselves with the definitions of "parent" set forth in *California Education Code* Section 56028 and 34 *Code of Federal Regulations* Section 300.30. It is also advised that school administrators determine the most efficient way to find out whether parents of children who are wards of the court have retained their educational rights.

It should be noted that a district's authority to appoint a surrogate may be exercised only when the parent(s) cannot be located or parental rights have been terminated. If the location of the parent(s) is known but the parent(s) fail or refuse to participate in the IEP meeting, the district may need to implement a due process hearing to obtain approval for the district's offer of free and appropriate public education (FAPE). In this case, the district does not need a surrogate parent.

In its publication of the 2006 regulations, 46540 *Federal Register*; Vol. 71; No. 156; Monday, August 14, 2006; Rules and Regulations, the Department of Education (federal) provided further clarification when responding to comments about IDEA:

Comment: A few commenters recommended that placement meetings not be held, or decisions made, without a representative of the child. The commenters recommended appointing a surrogate parent when the biological or adoptive parent refuses to attend, or is unable to participate, in the placement meeting.

Discussion: There is no statutory authority to permit the appointment of a surrogate parent when a parent is either unable or unwilling to attend a meeting in which a decision is made relating to a child's educational placement. In section 615(b)(2) of the Act, a public agency does not have the authority to appoint a surrogate parent where a child's parent is available or can be identified and located after reasonable efforts, but refuses, or is unable, to attend a meeting or otherwise represent the child.

Educators are advised to consult with qualified local legal counsel in order to identify who has been assigned legal authority to make educational decisions for the child.

Conservatorship

In some situations, a student over the age of 18, who is legally an adult, may have a conservator who will continue to act on the student's behalf in regard to special education and related services. The term "conservator" refers to a person given legal authority and responsibility by the superior court to make decisions for an adult person, married minor, or married minor whose marriage has been dissolved who is not competent to make such decisions or to give informed consent. Duly appointed conservators can be identified by a document called "Letters of Conservatorship" issued by the court, pursuant to *California Probate Code*, Section 1800 et seq. The "Letters of Conservatorship" define the scope of the conservator's power over the person and property of the incompetent adult.

For further information regarding the appointment and responsibilities of conservators, please refer to the information at <http://www.courtinfo.ca.gov/selfhelp/seniors/handbook.htm>.

Adult Students in Special Education

When a student reaches the age of eighteen, adult rights accorded under California law include the authority over his or her own education unless the adult student chooses not to make decisions or a court deems the student incompetent (*California Government Code* Section 7579.5(k)).

An LEA has no authority to appoint a surrogate parent for an adult student even if the IEP team considers the student incapable of participating in the educational process as a result of his or her disabilities. A court may appoint a conservator for this purpose (see “Special Situations” below).

Rights, Responsibilities, and Requirements of Surrogate Parents

The Surrogate Parent Role

The surrogate parent role on the IEP team is to represent the rights of a student with special education needs in all educational matters related to the provision of a free appropriate public education (*California Education Code* Section 56050). These rights within the educational process are the same as for any “parent,” with identical guarantees for participation in decision-making and procedural safeguards. The surrogate parent may represent the child throughout the special educational process (*34 Code of Federal Regulations* Section 300.519[g]).

The primary differences for surrogate parents are (1) local training requirements, as stipulated in the local plan, before appointment; (2) the term of appointment; and (3) the fact that the surrogate parent’s service may be terminated if a conflict of interest arises that may affect the child’s educational program (*34 Code of Federal Regulations* Section 300.519(d)(iii)), (*California Government Code* Section 7579.5 (g)-(k)).

Surrogate parents should learn as much as possible about the child with disabilities to appropriately represent the rights of the child throughout the special education process. Federal regulation and California statutes require that LEAs ensure that appointees have knowledge of special education requirements, local special education options and procedures, and an adequate understanding of the child’s disability and the disability’s effect on the child’s learning processes. For this purpose, not only does CDE recommend that LEAs provide training to each prospective surrogate before a surrogate parent is appointed for a specific child, but *34 Code of Federal Regulations* Section 300.519(d)(2)(iii) and *California Government Code* Section 7579.5(d) require that the surrogate parent meet with the child at least one time.

Authority of the Surrogate Parent

Under current law, the surrogate parent shall assume all parental rights in the IEP process (California *Education Code* Section 56050). The surrogate parent represents the child in all education matters including, but not limited to, identification, assessment, instructional planning, educational placement, reviewing and revising the IEP, and the provision of a free appropriate public education (California *Education Code* Section 56050). The surrogate parent may exercise any and all of the rights granted under federal and state education law (34 *Code of Federal Regulations* Section 300.519(g)). If a surrogate parent requires legal assistance in the representation of the child, the LEA must provide information about low-cost legal resources (California *Education Code* Section 56502(h)).

Relationship of the Surrogate Parent to Other Agencies

LEAs should also provide surrogate parents with information about all other state and local agencies that provide services to special education students (California *Education Code* Section 56050(b)).

Access to Records

The surrogate parent's rights necessarily include access to educational records relevant to any decisions made regarding the educational program of the child. That is, the surrogate parent has the right to review and inspect any records collected, maintained, or used by an agency to make decisions affecting the child's educational program within five (5) business days of the information request (California *Education Code* Section 56504).

Liability

Surrogate parents are held harmless when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious (California *Government Code* Section 7579.5(l)).

Suspension and Expulsion

When a student is being considered for suspension or expulsion, or there is a dispute over the identification, assessment, or placement of the student, the surrogate parent is entitled to participate as the "parent" in all phases of the proceedings (California *Education Code* Sections 48900, et seq. and 56505, et seq.). Surrogate training should include information regarding parents' procedural rights during suspension or expulsion proceedings and due process hearing procedures.

When to Appoint Surrogate Parents

This section presents procedural considerations for LEA surrogate parent appointment processes.

Basic Criteria for Appointing a Surrogate Parent

As described above, each public agency must ensure that the rights of a child are protected by determining the need for, and assigning, a surrogate parent whenever the child is referred or eligible for special education and either:

- no parent can be identified
- the public agency, after reasonable efforts, cannot locate a parent
- the child is a ward of the State under the laws of that State
- the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 *United States Code* Section 11434a(6)), and

Wards and Dependents of the Court

Under California law, there are both “dependent” children as well as children who are described as “wards” of the courts (California *Welfare and Institutions Code* sections 300, 601 and 602). A minor may be declared a ward of the court for habitual refusal to obey parents or guardians or truancy from school (California *Welfare and Institutions Code* Section 601). A minor may also be declared a ward for commission of a crime (California *Welfare and Institutions Code* Section 602). A “dependent” child may be one that is at risk of abuse or neglect by his or her parents (California *Welfare and Institutions Code* Section 300).

When a court decides that a minor is a ward or dependent, the court may limit the parent’s educational rights (California *Welfare and Institutions Code* sections 361(a) and 726). If the court limits parental rights, it must issue an order clearly assigning those educational rights to another responsible adult. After limiting the parent’s educational rights the court must use JV-535 (Appendix B) to document one of the following:

- appointment of an educational representative
- determination that the caregiver may make educational decisions
- referral to the LEA, or
- educational decisions made by the court with input from interested persons

(California *Rules of the Court*, Rule 5.650(b)).

An educational representative is the responsible adult who holds the educational rights for a child when the parent’s or guardian’s educational rights have been limited by the court (California *Rules of the Court*, Rule 5.502(13)). The appointed educational representative has the same rights and responsibilities as a surrogate parent regarding

special education. If the court cannot identify an educational representative and the child is or may be eligible for special education and related services, the court must refer to the LEA (*California Rules of the Court*, Rule 5.650(b)(2)).

JV-535 and JV-536 (Appendix B) must be served on the LEA no later than seven calendar days after the date of the court's order.

The LEA must make reasonable efforts to assign a surrogate parent within 30 calendar days after the court's referral.

If the LEA appoints a surrogate parent, it must send copies of the notice to the social worker or probation officer identified on JV-535. If the LEA does not appoint a surrogate parent within 30 days of receipt of the JV-535, it must, within the next seven calendar days, notify the court on form JV-536 of its inability to appoint a surrogate parent and its continuing reasonable efforts to assign a surrogate parent.

Silence of the court on the issue means the parent's rights have remained intact. The LEA should be notified by the placing agency pursuant to *California Government Code* Section 7579.1 et seq.

Unaccompanied Homeless Youth

The term "homeless children and youths" means individuals who lack a fixed, regular, and adequate nighttime residence and includes:

- children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement
- children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings
- children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and migratory children (42 *United States Code* Section 11434a(2))

The term "unaccompanied youth" is defined as a youth not in the physical custody of a parent or guardian (42 *United States Code* Section 11434a(6)).

A temporary surrogate parent may be appointed for a child who is an unaccompanied homeless youth. Such temporary surrogates may include appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs. These temporary surrogates may be employees of the State Education Agency (SEA), the LEA, or any other agency that is involved in the education

or care of the child until a surrogate parent can be appointed that meets all of the appointment requirements.

The Appointment Process

This section presents considerations for LEA appointment procedures for surrogate parents. Recruitment efforts and time lines for appointments will be different for persons already eligible for special education services and for those persons suspected of having a disability in education.

The suggestions presented in this section for a step-by-step approach to the appointment process are offered for guidance only. Except for the reference statutes, regulations, and court decisions, the described practices are not mandatory. Related sample forms are included in Appendix B and are optional.

Getting Started

Any student who has been referred for assessment because of a suspected disability, who is already eligible for special education, or who is enrolled in special education may have need of a surrogate parent. If documented "reasonable inquiries" do not locate the parent or guardian, or a child has been declared a ward or dependent of the court, a surrogate parent appointment would be in order.

Step 1: Contacting Parents

Efforts to locate the parent should begin immediately upon referral. Time is of the essence for several reasons. First, a series of tasks with specific timelines begin upon referral, related to identification, assessment, and placement decisions (California *Education Code* Section 56043). Since a parent must be involved in those decisions, the determination of the need for a surrogate parent should be made within 30 days of the referral. LEAs should continue to send notices to the parent whose educational rights may still be intact, even during the process of appointing a surrogate parent. If the parent is located, and is willing to participate in the educational process, the surrogate parent appointment should be terminated (California *Government Code* Section 7579.5(k)(4)). If the parent is located but refuses to participate in the IEP team meeting or refuses to designate a representative to participate, the LEA may want to contact the placing agency to seek clarification from the court.

If the student is not a ward or dependent, and if the LEA cannot determine that the student is in a home with an adult who is acting as a parent or who could be appointed as the surrogate parent, the LEA is advised to consider making a report of neglect or abuse to the child welfare agency in the county (California *Penal Code* sections 11165.7 and 11165.9).

Reasonable efforts to contact parents include, but are not limited to, the following measures:

- documented telephone calls
- letters
- certified letters with return receipts
- documented visits to the parents' last known address
- the placement of an agency notice of a court order that terminates parent rights

If the reasonable efforts described above fail to locate the parent or to obtain parent status notification from the placing agency, an interim surrogate parent appointment may be necessary. A surrogate parent shall be appointed not more than 30 days after the LEA determines that a student needs a surrogate parent (*California Government Code Section 7579.5(a)*). This appointment will facilitate timely IEP review, establish consent for special education assessment, or both.

Unless the educational rights have been removed, it is a good practice to send required special education notices to the natural parent or guardian when a known address becomes available.

If a surrogate parent is appointed for a child who is a ward or dependent of the court, the LEA must submit form JV-536 to the court within seven calendar days of the appointment. If the child has been referred by a "placing agency," it is helpful if the LEA informs the placing agency of the appointment.

Step 2: Selecting Surrogate Parents

When appointing a surrogate parent, the LEA shall give first preference to a relative caregiver, foster parent, or court-appointed advocate. However, if none of those individuals are willing or able to act as a surrogate parent, the LEA must be prepared to appoint another qualified responsible adult to act in that capacity (*California Government Code Section 7579.5(b)*). The local surrogate parent appointment program is more likely to be successful if an ongoing process of recruitment, screening, and training is used to develop and maintain a pool of candidate surrogate parents.

Finding Volunteers

Appropriate community groups should be contacted for purposes of recruiting surrogate parents. It is recommended that such groups be given a clear explanation of the roles and responsibilities of educational representatives as well as an overview of the time commitments that are involved in representing a special education student. Volunteers should be informed that they will be representing children who have special and sometimes unique needs. They must be willing to be trained to act as educational representatives for students requiring surrogates.

Other resources to consider are local school-parent organizations, volunteer offices of LEAs, community advisory committees, retired teachers associations, service clubs (e.g., Rotary, Lions, Soroptimists, Kiwanis), and court-appointed special advocates (see the list of California Court Appointed Special Advocate Programs in Appendix E). There are some volunteer organizations that have established screening processes for use in recruiting persons to work with children (e.g., Big Brothers, Big Sisters, Foster Grandparents, and so forth).

Successful recruitment is more likely to occur when LEAs bring the needs of their surrogate parent program to the attention of their local interagency network groups. The combination of local resource and referral networks—which include public and nonpublic schools, other public non-educational agencies, private agencies, private practitioners, and other local community volunteer agencies—may assist LEAs in locating potential surrogate parents.

Reasonable efforts should be made to ensure that persons representing all sections of the community and all racial, ethnic, linguistic, and economic subgroups within the community are recruited and made available for appointment as educational representatives (California *Government Code* Section 7579.5(e)). When cultural matches are not possible in spite of focused recruitment efforts, it is helpful to include information about cultural awareness when training individuals to become surrogate parents.

The procedures for selecting surrogate parents will differ with the home circumstances in which students are found. When students are living in a household with family members, it is a good idea to consider the adults within the household as potential surrogate parents.

Foster Parents

Foster parents and care providers who live with the child in small foster family homes have the usual rights of parents to participate in educational decisions, unless a court expressly excluded them from such decisions in a written order (California *Education Code* Section 56055). Even if so excluded, these persons continue to have caretaking responsibilities related to the non-special education portion of the child's school program; for example, assurances of regular school attendance, consent for field trips, and immunizations.

State law allows these in-home care providers to be appointed except when there is a conflict of interest (California *Government Code* Section 7579.5(i)(j)). An additional factor to consider is that monies received by foster parents and small foster family home care providers are not regarded by the California Department of Social Services (DSS) as payment for contracted services but as reimbursements for expenses incurred on the child's behalf. In-home providers are not likely to have conflicts of interests unless changes in residential placement are under consideration.

When a child is placed by the juvenile court, determinations about residential placement are outside the scope of the IEP team. When residential placement for educational purposes is under consideration, conflicts of interest are improbable if the in-home care provider is advocating the change in placement. However, a conflict of interest could arise when the provider seeks to retain the child in the current placement since changing the residential placement of a child would mean a loss of income to the provider. Therefore, local "blanket" policies concerning conflicts of interest may be problematic regarding in-home care providers as educational parent representatives or surrogates. When substantial issues are likely to result in a change in residential placement are faced by the IEP team, it is suggested that the LEA review appointments to reflect conflict of interest concerns (34 *Code of Federal Regulations* Section 300.519(d)(i)(ii)), (California *Government Code* Section 7579.5 (i)(j)). Each case should be determined on its own merits.

Step 3: Surrogate Parent Application

Local volunteer application procedures usually try to ascertain, at the outset, the following applicant information:

- Facts that show that the applicant does not have any interests that will conflict with the student's in the area of special education.
- Assurance that the applicant has or is willing to acquire knowledge about the special educational interest of the student and the qualities and skills necessary to fulfill the role of educational representative.
- Facts that show that the applicant is not an employee of a public, non-public, or private agency involved in the care or education of the student.
- Assurance that the applicant is willing to commit the time and energy necessary to effectively present and advance the best interests of students in educational matters without pay or reimbursements.

It is helpful to develop or adapt forms for a surrogate parent application procedure that not only meets local personnel requirements but also assures appropriate surrogate parent appointments (see samples in Appendix B). Generally, implementing districts have included an application, a disclosure statement to screen potential conflicts of interest, an acknowledgment that the potential appointee will complete the local training program for surrogates, and an agreement between the appointing agency and the surrogate parent that includes an assurance of confidentiality for student records.

The application package may also include a personal interest questionnaire, personal references for verification of personal information, releases of information for Department of Motor Vehicles screening, or even possible fingerprinting documentation (see sample forms included in Appendix B). If an LEA already has an existing volunteer program, it may be expeditious to adapt the program for surrogate appointment purposes.

Step 4: Screening for Conflict of Interest

Federal law mandates that the surrogate parent not have a conflict of interest (34 *Code of Federal Regulations* Section 300.519(d)(2)(ii)). Some factors to consider are whether the volunteer:

- is employed by an LEA or any agency involved in the education or care of the student
- holds a position that might restrict or bias his or her ability to represent the student's educational needs
- holds a position that might subject the volunteer to administrative influence or reprimand for acting as the student's educational representative
- has interests that might restrict or bias his or her ability to advocate for all the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in *California Government Code* Section 7579.5(i).

Group homes and other residential facilities that are not operated within the licensee's residence are considered businesses and viewed as having a financial conflict of interest. Therefore, employees and officers of such agencies should not be considered for appointment as a surrogate parent.

Disclosures of financial interests are the primary measures that special education local planning areas (SELPA) and LEAs may use to establish "conflict of interest" criteria. Currently adopted forms available at local or county personnel departments may be adapted as surrogate parent conflict of interest disclosure statements. It is advisable to complete the eligibility determination before inviting the surrogate parent candidate to a formal training.

The Surrogate Parent Agreement sample, included in Appendix B, contains the terms and conditions agreed upon between the surrogate parent and the LEA. These include:

- the responsibilities of a surrogate parent to the student, the LEA's responsibility to provide training regarding disabilities, the laws applicable to surrogate parent responsibilities, and the continuum of program placements and opportunities
- term of appointment
- termination of agreement
- confidentiality of student information

Step 5: Training of Potential Surrogate Parents

The responsibility of the SELPA or LEA to appoint persons who are knowledgeable about special education may be fulfilled by providing effective screening and training and consultation on an as-needed basis for potential surrogate parents. Training and ongoing consultation with potential volunteers may include familiarization with the

following items:

- educational needs of the student to be represented
- local programs and related services available in the SELPA or LEA
- procedural safeguards to ensure that the student's needs are met and IEP services are delivered
- time commitments of surrogate parents

Step 6: Additional Procedures

It is suggested that the following procedures be considered:

- Match the student's needs to the most appropriate volunteer in the selection of the most appropriate potential surrogate parent
- Introduce the student and the potential surrogate parent
- Obtain a written agreement with the surrogate parent to serve the specific student in his or her IEP process and to maintain the student's and the family's rights to confidentiality
- Inform all involved persons and agencies responsible for the residential care and education of the student of the surrogate parent's appointment

It is also suggested that appointments be reviewed annually to determine whether the status of the parent of the child still warrants the appointment.

Caseloads for surrogate parents vary nationally depending on the complexity or severity of the individual cases and the availability of surrogate parents. Other local considerations may be the driving distances between the special education programs of the represented students.

It is recommended that a surrogate parent's agreement to serve be documented in writing. Some examples of appointment and agreement forms are included in Appendix B.

Whenever possible, an introductory meeting before finalizing the appointment may be arranged for the child and potential surrogate to become acquainted. Such preliminary introductions may allay any serious reservations held by the potential surrogate or the child. Once a surrogate parent is appointed, notices should be sent to all staff involved in the residential care and education of the student.

It is recommended that local policies be developed to ensure appropriate access by the surrogate parent to the student, the student's records, and the meetings necessary for the development and review of the IEP. When an IEP team determines "that there are no other appropriate public education programs available," the LEA may contract with a certified nonpublic, nonsectarian school or agency to provide the services specified by the IEP, pursuant to California *Education Code* Section 56366. A representative of the

selected nonpublic school and agency can participate in any subsequent meetings with the surrogate parent and IEP team to review and revise the IEP.

Appointment Terms and Dismissal of a Surrogate Parent

The surrogate parent may represent the child until any of the following are determined:

- The child is no longer in need of special education.
- The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent.
- Another responsible adult is appointed to make educational decisions for the minor.
- The right of the parent or guardian to make educational decisions for the minor is fully restored.

(California *Government Code* Section 7579.5(k))

The LEA shall terminate the appointment of a surrogate parent if either of the following apply:

- The person is not properly performing the duties of a surrogate parent.
- The person has an interest that conflicts with interests of the child entrusted to his or her care.

(California *Government Code* Section 7579.5(h))

Additionally, the LEAs may want to consider terminating the appointment under the following instances:

- Ineligibility for special education services is determined by the IEP team. (However, if due process is invoked to challenge the issue of ineligibility, the surrogate remains until the challenge is resolved).
- Actions that fall under the mandated reporting laws and threaten the health and well-being of the child are present.
- Parents are located and retain their educational rights.

(California *Government Code* Section 7579.5(a))

The surrogate parent may resign from his or her appointment only after he or she gives notice to the LEA (California *Government Code* Section 7579.5(g)).

It is advisable for LEAs to establish policies and procedures for the dismissal, resignation, or involuntary removal of appointed surrogate parents and to monitor the surrogate parents who are appointed to ensure that they perform their duties in the special education process and stay free of conflicts of interest. If decisions are made to rescind the appointment of a surrogate parent, it would be helpful if the reasons are documented and given to the volunteer.

Parental rights automatically revert to the student's parents when the parents return to assume their roles, unless their rights have been limited by a court. When the student reaches the age of majority, the student will assume the parental role within the IEP process. Emancipated minors or married minors can act on their own behalf educationally unless a court has determined otherwise (*California Government Code Section 7579.5(k)*).

The Roles of Public Non-educational Agencies, Foster Care Providers

This section describes the responsibilities of the placing agencies and foster care providers, provides information needed by these agencies, and highlights the need for interagency collaboration. It also addresses issues related to local mental health involvement with appointed surrogate parents.

The majority of youth who will require surrogate parents are those who are under the jurisdiction of a county agency (such as Social Services, public guardian, or Probation) or a state agency (such as the California Youth Authority, state hospitals, or developmental centers). Areas of concern are as follows:

- determination of parental educational rights
- notification regarding status of wards and dependent children
- interaction with LEAs and SELPAs
- interaction with surrogate parents
- confidentiality
- mental health assessment and treatment

Since placing agencies (including Regional Centers for the Developmentally Disabled) are charged with the responsibility of maintaining "care, custody, and control" over children, it is helpful if the agency staff and the surrogate parent understand each others' roles and responsibilities.

Determination of the Parents' Educational Rights

At the time of placement, it is assumed that the parental rights regarding education are retained unless the order specifically indicated a restriction (*California Welfare and Institutions Code* sections 245.5 and 361(a)). If a court declares the minor a dependent child, the court must specifically state what limits have been imposed on the rights of the parents or guardians. The court may also place the child in a "planned permanent living arrangement." Placing agencies are advised to begin efforts to confirm a parent's educational rights at the earliest point of placement as possible.

Notifications about the Status of Wards and Dependent Children

Before placing a student who has an existing IEP or is suspected of requiring special education services, the placing agency is responsible for notifying two agencies of the impending discharge: the local LEA in which the special education program for the child

is being provided and the receiving SELPA to which the child is being transferred. The SELPA administrator is then responsible for providing information about the availability of an appropriate special education program in the area where the residential facility is located (*California Government Code Section 7579(a)*).

The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area (SELPA) with a copy of the child's IEP, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's IEP in the receiving SELPA (*California Government Code Section 7579.1(a)(2)*).

It is recommended that a written notification to the SELPA occur as soon as a placing agency has a reasonable expectation that a child with disabilities will be placed (see the suggested form in Appendix B and the list of SELPAs in Appendix D). The placing agency's provision of the following information is recommended as being useful for the SELPA's or LEA's facilitation of appropriate educational services for the students; the child's name, birthday, residential placement, former school, placement or referrals to special education, and legal status; name, address, and location and phone number of parent; legal status of parents' educational rights; and the address of the placing agency and current staff assignment (see Appendix B for suggested forms).

If parental rights have not been specifically limited by the court, it is suggested that the placing agency provide any additional appropriate information, including address and available telephone numbers regarding the location of parents so that the LEA may make a reasonable effort to contact them. Ongoing cooperation between the agencies is recommended.

In practical terms, since removal of a child is often on an emergency basis, it is a good idea for the placing agency to notify the SELPA or LEA of the move as soon as it is anticipated.

Interaction with Surrogate Parent

Once a surrogate parent is appointed, it is important for the non-educational agencies to understand the role of the surrogate parent and facilitate appropriate interaction with the student.

For surrogate parents to be fully informed about the student's disability and educational needs, it is advised that LEAs develop working agreements with non-educational agencies that will enable surrogate parents to expeditiously receive vital information.

As long as the minor remains placed within the appointing SELPA or LEA and the surrogate parent appointment has not been withdrawn, it is the responsibility of the surrogate parent to participate in educational planning for the student. The placing agency worker remains responsible in all other aspects of the casework. The foster care

provider remains responsible for providing day-to-day supervision, care, and services as agreed on with the placing agency. Since each agency is responsible for developing appropriate plans for the child and each may have a different perspective regarding the child, this relationship is potentially problematic and extremely critical.

Since a surrogate appointment is contingent on a child's eligibility for special education services, the surrogate parent's appointment lapses when an LEA no longer has the responsibility to provide FAPE to a student who is represented by a surrogate parent. For example, if a child ceases to be a resident of a particular LEA, the new LEA of residence would be obligated to provide FAPE. The sending LEA, when terminating the surrogate parent appointment, should notify the new LEA that a surrogate parent was previously appointed, so that the former surrogate parent may provide important information concerning the child's educational needs to the new LEA and any new surrogate parent that may be appointed.

Confidentiality

State and federal law protect the confidentiality of student records and limit the disclosure of such records. However, both state and federal law allow the parents to consent to the release of student information (*California Education Code* Section 49076; 20 *United States Code* Section 1232g(b)(1)). Since a surrogate parent has all the rights that a natural or biological parent would have, these should include the right to consent to release of student information. In addition, the placing agency that is responsible for the student pursuant to an order of the juvenile court is entitled to obtain student records necessary to perform its duties under the court order (*California Education Code* Section 49076(a)(11), 20 *United States Code* Section 1232g(b)(1)(E)).

The presiding judges of the juvenile courts in many counties have issued special orders outlining authorization to release information in specific circumstances. LEA administrators and surrogate parents should be aware of any such general orders in their county as well as specific orders regarding particular students, and should consult with local legal counsel as needed to obtain access to records or to obtain permission to share information when necessary.

To ensure the confidentiality of all records, it is advised that the LEA provide detailed training to the surrogate parent to ensure that any protected information will not be released and will be appropriately returned or destroyed when the surrogate parent appointment ends. Such an assurance should facilitate the case management interaction with the agencies.

Local Mental Health Intervention

When a surrogate parent is appointed and agrees that there is a need for local mental health involvement, *California Government Code* Section 7579.5(c) authorizes the surrogate parent to give written consent for nonemergency medical services, mental health treatment services, and occupational or physical therapy services relative to the

IEP of the child being represented (See also California *Education Code* Section 56050(b)).

Monitoring and Complaint Procedures

This section describes various methods for state and local oversight of surrogate parent appointment programs.

Each local plan, submitted to the California Department of Education for review and subsequent approval by the State Board of Education, must describe the manner in which it will comply with the federal surrogate parent mandate (California *Education Code* Section 56205(a)(11)).

LEAs are encouraged to maintain adequate records of appointment, training, and monitoring of the surrogate parent program. Likewise, individual surrogate parents are trained and encouraged to comply with appropriate record-keeping policies, procedures, and methods to ensure that each student's needs for special education and related services are appropriately represented in meetings of the IEP team.

To ensure that surrogate parent programs are consistent with both federal and state law, such programs are required to be monitored. Monitoring will occur through the California Department of Education's Quality Assurance Process (California *Education Code* Section 56045).

If a compliance complaint is filed by a surrogate parent, it will be handled pursuant to the California *Code of Regulations*, Title 5, sections 4600–4671. A surrogate parent is also entitled to request a due process hearing to resolve a dispute over the content of an IEP pursuant to California *Education Code* Section 56500 et seq. Complaints arising under the interagency coordination statute can be addressed pursuant to California *Government Code* Section 7585.

Other agencies and departments interacting with the child will have distinct monitoring and complaint procedures with which the LEA must coordinate. When contracting with a nonpublic school or agency to provide special education and related services for eligible students, it is recommended that the LEA include contract provisions that will ensure that appropriate visitations and involvement in the educational placement is provided to surrogate parents. In addition, public, non-educational agencies have established complaint procedures in place to ensure that the best interests of the child are always the primary concern of any assigned staff.

Three Special Situations: Questions and Answers

Situation One: If a student is eighteen years old or older, is competent to represent himself or herself, and is not conserved...

Question: Who is the "parent" under California law - the student or the parent?

Answer: The student is legally considered to be the “parent.”

Question: Whose signature is required to conduct an assessment and so forth?

Answer: The student’s signature is required.

Question: Whose signature or consent is binding if the student and the parent are both at a meeting and disagree with each other?

Answer: The student’s signature or consent is binding.

Question: What role does the natural parent play if the student is the “parent”?

Answer: The natural parent may still have a role in an IEP meeting even though the student has become an adult. However, the natural parent no longer has due process rights at this point. If the adult student appears to be incompetent to make decisions at this point, the LEA may advise the student’s parent to research conservatorship procedures.

Situation Two: If a student is eighteen years old or older, does not appear to be competent, and is not conserved...

Question: Who is the “parent” under California Law?

Answer: Until a court appoints a conservator, the student continues to be the parent. The student could choose to have a surrogate parent appointed or to continue a surrogate appointed before age 18.

Question: Who determines whether a student is competent and what criteria are used to make that determination?

Answer: Local school officials are not qualified to make an official determination that an adult student is incompetent. If such a student comes to an IEP meeting and cannot function on his or her own behalf and there is no parent, the IEP process cannot go forward. If the student is also a client of another pertinent local or state agency, a school official may want to bring this matter to the attention of the agency’s staff.

As to all aspects of a conservatee’s affairs, which include education, the rights of a conservator are spelled out in the conservatorship statutes. A person who is appointed by a court to be a conservator is, as a matter of law, wholly unbiased. Thus, there would be no conflict problem.

Situation Three: If a student of any age is conserved and the conservator is an employee of a public or private agency involved in the care, custody, and control of the student...

Question: Does a conflict of interest exist and should a surrogate be appointed?

Answer: Since the conservator is appointed by a court, the court should be presented with the educational conflict issue. The court could either appoint a different conservator or authorize an LEA to appoint a surrogate for special education purposes.

Question: If the student or his or her natural parents are not residents of the district in which the conservator lives or works, which district is responsible for conducting assessments, holding IEP meetings, gaining access to AB 3632 services, or paying nonpublic school costs?

Answer: The district in which the conservator is living is the responsible LEA (California *Education Code* Section 56041(b)) and is responsible for conducting assessments, holding IEP meetings, gaining access to AB 3632 services, or paying nonpublic school costs. The natural parents' district does not apply because the natural parents' rights or any of the student's rights that may be attributed to the natural parents' residence is superseded by the conservatorship.

Question: Is there a difference if the (conserved) student is younger than eighteen years of age or older than eighteen years of age?

Answer: No.

Appendix A: Statute Code of References

Federal Surrogate Parent Mandates (Statute)

20 *United States Code* Section 1415(b)(2)(A)
Procedural Safeguards

(a) Establishment of procedures

Any State educational agency, State agency, or LEA that receives assistance under this subchapter shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education by such agencies.

(b) Types of procedures

The procedures required by this section shall include the following:

(1) An opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.

(2)

(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the LEA, or any other agency that is involved in the education or care of the child. In the case of:

(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph; and

(ii) an unaccompanied homeless youth as defined in Section 11434a (6) of Title 42, the LEA shall appoint a surrogate in accordance with this paragraph.

Federal Regulation Implementing Above Statute

Code of Federal Regulations 300.519

(a) General. Each public agency must ensure that the rights of a child are protected when:

(1) No parent (as defined in Section 300.30) can be identified;

(2) The public agency, after reasonable efforts, cannot locate a parent;

(3) The child is a ward of the State under the laws of that State; or

(4) The child is an unaccompanied homeless youth as defined in Section 725(6) of the McKinney-Vento Homeless Assistance Act (42 *United States Code* 11434a(6)).

(b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method--

- (1) For determining whether a child needs a surrogate parent; and
- (2) For assigning a surrogate parent to the child.

(c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

(d) Criteria for selection of surrogate parents.

- (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent--
 - (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
 - (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.

(e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

(g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to--

- (1) The identification, evaluation, and educational placement of the child; and
- (2) The provision of FAPE to the child.

(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

(Authority: 20 *United States Code* 1415(b)(2))

State Statutory Mandate

California *Education Code* Section 56050

Representation of Individuals With Exceptional Needs; Liability

(a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in Section 300.519 of Title 34 of the Code of Federal Regulations.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development,

educational placement, reviewing and revising the IEP, and in other matters relating to the provision of a free appropriate education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the California *Government Code*. The surrogate parent may sign any consent relating to IEP purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the California *Government Code*.

Federal Definition of "Parent"

34 Code of Federal Regulations Section 300.30

Parent

(a) Parent means—

- (1) A biological or adoptive parent of a child;
- (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) A surrogate parent who has been appointed in accordance with Section 300.519 or Section 639(a)(5) of the Act.

(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

(Authority: 20 *United States Code* 1401(23)).

State Definition of "Parent"¹**California Education Code Section 56028**

(a) "Parent" means any of the following:

- (1) A biological or adoptive parent of a child.
- (2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the *Code of Federal Regulations*.
- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the *Welfare and Institutions Code*.
- (4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.
- (5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the *Government Code*, and in accordance with Section 300.519 of Title 34 of the *Code of Federal Regulations* and Section 1439(a)(5) of Title 20 of the *United States Code*.

(b) (1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the *Government Code*, and Sections 361 and 726 of the *Welfare and Institutions Code*.

(c) "Parent" does not include the state or any political subdivision of government.

(d) "Parent" does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

Appointment, Qualification, and Liability of Surrogate Parents**California Government Code Section 7579.5****Surrogate Parents**

(a) In accordance with subparagraph (B) of paragraph (2) of subsection (b) of Section 1415 of Title 20 of the *United States Code*, a local educational agency shall make

¹ As of January 1, 2009, the California Education Code 56028 parent definition will be updated by Assembly Bill 2057, Chapter 223, Statutes of 2008.

reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent. A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the *Code of Federal Regulations* under one or more of the following circumstances:

(1) (A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the *Welfare and Institutions Code* upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid IEP,

(B) the court has specifically limited the right of the parent or guardian to make educational decisions for the child, and

(C) the child has no responsible adult to represent him or her pursuant to Section 361 or 726 of the *California Welfare and Institutions Code* or Section 56055 of the *California Education Code*.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(b) When appointing a surrogate parent, the local educational agency shall, as a first preference, select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the local educational agency shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the *United States Code* and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the *Code of Federal Regulations*. The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter.

(d) The surrogate parent is required to meet with the child at least one time. He or she may also meet with the child on additional occasions, attend the child's IEP meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to IEP purposes.

(e) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(f) The surrogate parent shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the

necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the child.

(g) The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency.

(h) The local educational agency shall terminate the appointment of a surrogate parent if (1) the person is not properly performing the duties of a surrogate parent or (2) the person has an interest that conflicts with interests of the child entrusted to his or her care.

(i) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.

(j) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child.

(1) A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the other standards of this section.

(2) A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the local educational agency solely because he or she is paid by the local educational agency to serve as a surrogate parent.

(k) The surrogate parent may represent the child until (1) the child is no longer in need of special education, (2) the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent, (3) another responsible adult is appointed to make educational decisions for the minor, or (4) the right of the parent or guardian to make educational decisions for the minor is fully restored.

(l) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(m) The State Department of Education shall develop a model surrogate parent training module and manual that shall be made available to local educational agencies.

(n) Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(o) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-0890 of Section 2.00 of the annual Budget Act.

Criteria for a Minor to be Adjudged a Dependent of the Court

California *Welfare and Institutions Code* Section 300

Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted non-accidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, non-treatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or non-treatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or non-treatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

Court Specificity Concerning Limitation of Parent's Rights

California *Welfare and Institutions Code* Section 245.5

In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or for the rehabilitation of the minor. These orders may concern the care, supervision, custody, conduct, maintenance, and support of the minor, including education and medical treatment.

California *Welfare and Institutions Code* Section 361(a)

(a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

- (1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.
- (2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.
- (3) The right of the parent or guardian to make educational decisions for the minor is fully restored.
- (4) A successor guardian or conservator is appointed.
- (5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, or Section 366.26, at which time the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the *California Education Code*. An individual who would have a conflict of interest in representing the child may not be appointed to make educational decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the *Government Code*, and the receipt of compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

If the court is unable to appoint a responsible adult to make educational decisions for the child and paragraphs (1) to (5), inclusive, do not apply, and the child has either been referred to the local educational agency for special education and related

services, or has a valid IEP, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the *California Government Code*.

If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the *California Education Code* is not warranted, and there is no foster parent to exercise the authority granted by Section 56055 of the *California Education Code*, the court may, with the input of any interested person, make educational decisions for the child.

California Welfare and Institutions Code 726

a) In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian and shall in its order, clearly and specifically set forth all those limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian, unless upon the hearing the court finds one of the following facts:

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(2) That the minor has been tried on probation while in custody and has failed to reform.

(3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.

(b) Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) or (6) of subdivision (b) of Section 727.3, at which time the foster parent, relative caretaker, or non-relative extended family member as defined in Section 362.7 has the right to represent the child in educational matters pursuant to Section 56055 of the *Education Code*.

An individual who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed to make educational decisions. For purposes of this section, "an individual who would have a conflict of interest," means a person having any interests that might restrict or bias his or her ability to make educational decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the *Government Code*, and the receipt of

compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section. If the court is unable to appoint a responsible adult to make educational decisions for the child and paragraphs (1) to (5), inclusive, do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the *Government Code*.

All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child.

(c) If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

As used in this section and in Section 731, "maximum term of imprisonment" means the longest of the three time periods set forth in paragraph (2) of subdivision (a) of Section 1170 of the *Penal Code*, but without the need to follow the provisions of subdivision (b) of Section 1170 of the *Penal Code* or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the *Penal Code*, plus enhancements which must be proven if pled. If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the "maximum term of imprisonment" shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the *Penal Code*, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the *Penal Code*, and Section 11370.2 of the *Health and Safety Code*.

If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the *Penal Code*, the "maximum term of imprisonment" is the longest term of imprisonment prescribed by law.

"Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority. This section does not limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

Exchanging Information Between Non-Educational Placing Agencies and LEAs

California Government Code Section 7579(a) Prior to Placement in a Residential Facility

Prior to placing a disabled child or a child suspected of being disabled in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the SELPA in which the residential facility is located. The administrator of the SELPA shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the SELPA where the residential facility is located.

California Government Code Section 7579.1(a) Notifications Required Prior to Discharge

(a) Prior to the discharge of any disabled child or youth who has an active IEP from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2 of Part 30 of the *Education Code*, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of the *Education Code*, or a state hospital for the developmentally disabled or mentally disordered, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least 10 days prior to the discharge of a disabled child or youth, notify in writing the local educational agency in which the special education program for the child is being provided, and the receiving SELPA where the child is being transferred, of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving SELPA with a copy of the child's IEP, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's IEP in the receiving SELPA.

(b) Once the disabled child or youth has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the disabled child or youth receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the California *Education Code*. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to sections 56156.4, 56156.6, and 56167 of the California *Education Code*.

(c) SELPA directors shall document instances where the procedures in subdivision (a) are not being adhered to and report these instances to the Superintendent of Public Instruction.

Reporting Responsibilities When Placing Children in Licensed Children's Institutions (LCIs)

California Education Code Section 56156

(a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, LCIs shall report to the special education administrator of the district, SELPA, or county office in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a LCI or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

(1) Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a child who is a ward or dependent of the court.

(2) The location of the parents, in the event that the parents retain the right to make educational decisions.

(3) Whether the location of the parents is unknown.

(c) Each person licensed by the state to operate a LCI, or his or her designee, shall notify the special education administrator of the district, SELPA, or county office in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The superintendent shall provide each county office of education with a current list of LCI in that county at least biannually. The county office shall maintain the most current list of licensed children's institutions located within the county and shall notify each district and SELPA within the county of the names of LCIs located in the geographical area of the county covered by the district and SELPA.

The county office shall notify the director of each LCI of the appropriate person to contact regarding individuals with exceptional needs.

Failure to Provide Service

California Government Code Section 7585

Whenever any department or any local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575 or 7576, and specified in the child's IEP, the parent, adult pupil, or any local education agency (LEA) referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of Health and Welfare.

Role of Nonpublic School or Agency

California Education Code Section 56366

It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.

Confidentiality of Student Information

California *Education Code* Section 49076

A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order except that:

(a) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) School officials and employees of the district, members of a school attendance review board appointed pursuant to Section 48321, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing follow-up services to pupils referred to the school attendance review board, provided that the person has a legitimate educational interest to inspect a record.

(2) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided or where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(3) Authorized representatives of the Comptroller General of the United States, the Secretary of Education, and administrative head of an education agency, state education officials, or their respective designees, or the United States Office of Civil Rights, where the information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner which will not permit the personal identification of pupils or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for the audit, evaluation, and enforcement of federal legal requirements.

(4) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(5) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of the *Internal Revenue Code* of 1954.

(6) A pupil 16 years of age or older or having completed the 10th grade who requests access.

(7) Any district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5, or Section 601.3 of the *California Welfare and Institutions Code*, or participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the *California Welfare and Institutions Code*.

(8) A prosecuting agency for consideration against a parent or guardian for failure to comply with the Compulsory Education Law (Chapter 2 (commencing with Section 48200) of Part 27) or with Compulsory Continuation Education (Chapter 3 (commencing with Section 48400) of Part 27).

(9) Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

(10) Any judge or probation officer for the purpose of conducting a truancy mediation program for a pupil, or for purposes of presenting evidence in a truancy petition pursuant to Section 681 of the California *Welfare and Institutions Code*. The judge or probation officer shall certify in writing to the school district that the information will be used only for truancy purposes. A school district releasing pupil information to a judge or probation officer pursuant to this paragraph shall inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.

(11) Any county placing agency for the purpose of fulfilling the requirements of the health and education summary required pursuant to Section 16010 of the California *Welfare and Institutions Code* or for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law and to assist with the school transfer or enrollment of a pupil. School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential access to and exchange of the pupil information by electronic mail, facsimile, electronic format, or other secure means.

(b) School districts may release information from pupil records to the following:

(1) Appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a pupil or other persons.

(2) Agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(3) The county elections official, for the purpose of identifying pupils eligible to register to vote, and for conducting programs to offer pupils an opportunity to register to vote. The information, however, shall not be used for any other purpose or given or transferred to any other person or agency.

(4) Accrediting associations in order to carry out their accrediting functions.

(5) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of pupils or their parents by persons other than representatives of the organizations and the information will be destroyed when no longer needed for the purpose for which it is obtained.

(6) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068. This information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

A person, persons, agency, or organization permitted access to pupil records pursuant to this section may not permit access to any information obtained from

those records by any other person, persons, agency, or organization without the written consent of the pupil's parent. However, this paragraph does not require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate interest in the information.

(c) Notwithstanding any other provision of law, any school district, including any county office of education or superintendent of schools, may participate in an interagency data information system that permits access to a computerized database system within and between governmental agencies or districts as to information or records which are nonprivileged, and where release is authorized as to the requesting agency under state or federal law or regulation, if each of the following requirements are met:

- (1) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.
- (2) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.
- (3) Each school district shall comply with the access log requirements of Section 49064.
- (4) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.
- (5) An agency or school district may not make public or otherwise release information on an individual contained in the database where the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.

California *Welfare and Institutions Code* Section 827

(a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

- (A) Court personnel.
- (B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.
- (C) The minor who is the subject of the proceeding.
- (D) His or her parents or guardian.
- (E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.
- (F) The superintendent or designee of the school district where the minor is enrolled or attending school.
- (G) Members of the child protective agencies as defined in Section 11165.9 of the *Penal Code*.
- (H) The State Department of Social Services to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12, of the *Family Code* to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.
- (I) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of

Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the California *Health and Safety Code*, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the minor.

(J) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(K) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the *Family Code*, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the *Family Code*, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the *Family Code*. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor's counsel.

(L) A court-appointed investigator who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the *Probate Code* and acting within the scope of his or her duties in that case.

(M) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(N) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(O) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

Appendix B: Sample Forms

Forms used in California in the Surrogate Parent program:

- Request for Surrogate Parent Volunteer - <http://199.88.112.54/selpa/selpa%20forms/pdf%20versions.2006/req%20for%20surrogate%20parent.pdf>
- Surrogate Parent Agreement -- following pages
- Notification of Surrogate Parent Authorization-- following pages

Superior Court of California Surrogate Parent Appointment Forms:

- Findings And Orders Limiting Right To Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs (JV-535) - <http://www.courtinfo.ca.gov/forms/documents/jv535.pdf>
- Local Educational Agency Response to JV-535 - Appointment of Surrogate Parent (JV-536) - <http://www.courtinfo.ca.gov/forms/documents/jv536.pdf>
- Educational Representative or Surrogate Parent Information (JV-537) - <http://www.courtinfo.ca.gov/forms/documents/jv537.pdf>

Special Education Local Plan Areas (SELPA) Representing:
San Juan, Sacramento City, Elk Grove, Folsom Cordova and Sacramento County

SURROGATE PARENT AGREEMENT

This Surrogate Parent Agreement ("Agreement") is made and entered into effective the date of _____, 20____ between the Sacramento County SELPA and _____ ("Surrogate Parent") with respect to the following recitals:

- A. District desires to fulfill its obligations to appoint a surrogate parent to represent a special education student to ensure that the student obtains a free and appropriate education under the Individuals with Disabilities Education Act ("IDEA") and state law.
- B. Surrogate Parent has expressed a desire and willingness to act as the Student's Surrogate Parent for educational purposes.

Now, therefore, the parties agree as follows:

1. Appointment – Surrogate Parent agrees to act as the "Parent" and educational Representative for Student in accordance with 34 *Code of Federal Regulation* Section 300.519, California *Education Code* Section 56050, California *Government Code* Section 7579.5 and other applicable provisions of state and federal law.
2. Representations – Surrogate Parent represents that he or she has no interest that conflicts with the interest of the Student and that Surrogate Parent is not an employee of any agency involved in the care, custody or education of Student. Surrogate Parent further agrees to act on behalf of Student and to advocate for the education of Student in all ways necessary to ensure that Student receives a free and appropriate public education. Surrogate Parent also agrees to communicate with Student and other appropriate individuals or agencies to the extent necessary to ensure that Student receives a free and appropriate public education. Finally, Surrogate Parent agrees to meet with Student, as appropriate and others and to review Student's educational records to develop knowledge and understanding of Student's disability and Student's individual needs for special education and related services. If at any time, during the term of this Agreement, Surrogate Parent develops an interest which may conflict with the interests of Student, or becomes an employee of an agency involved in the care, custody or education of Student, Surrogate Parent agrees to immediately notify the District. Upon verification the district shall terminate the agreement.

3. Training – Surrogate Parent acknowledges that District has provided training regarding Student’s handicapping condition, the laws applicable to Surrogate Parent responsibilities, and the continuum of program placements and opportunities available in the Sacramento County SELPA.
4. Term – District hereby appoints Surrogate Parent for a term of 2 years.
5. Termination – Either party may terminate this agreement for any reason upon thirty (30) days written notice to the other party.
6. No Assignment - Surrogate Parent agrees that this Agreement shall be a personal contract and shall not be assignable, in whole or in part, in any manner whatsoever.
7. Student Records – Surrogate Parent agrees to maintain all records of Student reviewed or maintained by Surrogate Parent in a confidential manner and agrees that, upon the termination of this Agreement, all such records shall be returned to District.

| | | | |
|------------------|-------------------------|-------|------|
| Surrogate Parent | Address | Phone | Date |
| SELPA/Designee | Sacramento County SELPA | Phone | Date |

Special Education Local Plan Areas (SELPA) Representing:
San Juan, Sacramento City, Elk Grove, Folsom Cordova and Sacramento County

NOTIFICATION OF SURROGATE PARENT AUTHORIZATION

In accordance with AB 1528 (Chapter 182, Statutes of 1990), and General Regulation Sections 300.514 of the *Code of Federal Regulations*, the Sacramento County SELPA shall ensure that the rights of the child are protected.

In compliance,

(Name of Surrogate)

has been appointed and has agreed to act as a surrogate parent for:

(Name of Child)

The appointed surrogate must represent the child in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the individualized education program, and provision of a free and appropriate education for the child.

| Surrogate Parent | Address | Phone | Date |
|-------------------------|-------------------------|-------|------|
| | Sacramento County SELPA | | |
| SELPA/District/Designee | | Phone | Date |

Distribution: White - SELPA
Yellow - Surrogate
Pink - District

Appendix C: SELPA Directory

Go to the CDE Web site at <http://www.cde.ca.gov/sp/se/as/caselpas.asp> for the names and locations of the Special Education Local Plan Areas in California.

Appendix D: California Court Appointed Special Advocates (CASA)

In 1977, a Seattle Superior Court Judge named David Soukup was concerned about trying to make decisions on behalf of abused and neglected children without enough information. He conceived the idea of appointing community volunteers to speak up for the best interests of these children in court. He made a request for volunteers; 50 citizens responded, and that was the start of the CASA movement. Today, there are thousands of advocates serving in California alone.

The mission of California CASA Association is to enhance and strengthen CASA in California and support individual programs in their efforts to provide quality advocacy services to all abused and neglected children in the juvenile courts through the use of trained Court Appointed Special Advocates (CASAs) volunteers. These volunteers build close relationships with and serve as one-on-one advocates for children in foster care. Over 40 CASA programs in California recruit and specially train these volunteers from the community, who are then appointed as advocates by a juvenile court.

For the most current information and details about the CASA program in your area, visit California CASA's Web site at <http://www.californiacasa.org>



SECTION 14

RESOURCES



RESOURCES

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ALTERNATIVE DISPUTE RESOLUTION (ADR)

Alternative Dispute Resolution (ADR) Services within the Southwest SELPA

ADR services within the Southwest SELPA provide an early intervention to adult conflict resolution. Since 2006, ADR has been an institutionalized service within the SELPA and has been written into the Southwest SELPA Local Plan.

ADR provides an opportunity for individuals to resolve disagreements in a safe, efficient way. The SELPA is committed to helping families and schools solve problems and conflicts in the fastest and easiest way, reducing legal costs for both parents and school districts.

The program is voluntary. All involved must be willing participants who are prepared and open to finding common ground in the effort to move through the conflict.

The program is confidential. With the exception of trainings, all ADR services are confidential unless all participants in the ADR meeting agree otherwise. The mediator or facilitator will disclose neither the names of participants nor content of an ADR session to any outside source unless otherwise agreed. Employees utilizing ADR services to resolve a conflict have assurance that information raised in an ADR meeting will not be used against them at a future date. Similarly, if families and districts have an unsuccessful ADR meeting (resulting in a state-level proceeding), none of the contents in an ADR session will be used as evidence in a subsequent due-process hearing.

The program is educational. ADR services - from training to informal mediations - provide a positive environment for individuals to learn and grow. Because participants are able to safely learn from their mistakes, the process is especially conducive to individual and systematic change. A mediator or facilitator who suspects abuse is mandated to report this to the proper authorities.

ADR Services Include:

- Training
- Resolution Sessions
- Pre-filing Meetings
- Employee Mediations
- Facilitated IEP Meetings
- Coaching
- Ombudsmanship

This document has been approved by the SELPA Director, Superintendent's Council and Community Advisory Council of the Southwest SELPA.

PARENTS

STEPS FOR RESOLVING PROBLEMS WITHIN SPECIAL EDUCATION

- STEP 1** Ask your child's teacher to assist you in getting an answer. Be specific, be positive, and be direct. Allow a week or two for an answer.
- STEP 2** Ask your school's principal for advice. On an increasing basis, principals are being greater authority to solve special education problems. They may also contact the special education administrators on your behalf. Meet face to face, if possible. Follow-up with a written request. Save a copy for your records.
- STEP 3** Equal to step 2 in many districts and better in some, contact the Special Education Program Specialist. Again, be direct, specific and set a time limit. To move things along, request an I.E.P. team meeting to insure that an answer will be provided. Your written request for an I.E.P. starts the clock ticking.
- STEP 4** A call to the Director of Special Education is always in order. The Director should have knowledge of the situation if the other steps have not been working. Don't miss this step. Put your request in writing after you meet or talk on the phone. Ask for a response by a specific date or at the upcoming I.E.P. you requested.
- STEP 5** It may be necessary to talk to top administration. In a small district this is the Superintendent. For large districts, it may be an assistant Superintendent. Find out who the Director of Special Education reports to and do a follow-up call. In addition, you can contact either the SELPA Director or the Coordinator of Alternative Dispute Resolution. In a multi-district SELPA, the SELPA Director answers to the Superintendents.

The above five steps should have taken no more than four weeks. The request for an I.E.P team meeting should have a set date within the next few days. At this last I.E.P., before you take the next steps, spell out the request and describe the steps you have taken so far. The decision makers should be at the I.E.P meeting and the request should result in an answer and an action.

If you agree with the answer and the action, then know that your thorough and thoughtful communication worked. If you disagree with the answer and the action, your rights are still available to you under the law.

Options Include:

- **Alternative Dispute Resolution.** The Southwest SELPA has an Alternative Dispute Resolution Coordinator who offers a variety of different services. Contact Marc Purchin at 310-944-3217 X 229 or SW_ADR@lacoed.edu
- **File for mediation only (no attorneys can be present for either side)** A state mediator will assist both sides in reaching an agreement. Bring your notes and log of communication and a friend or family member for support.
- **File for mediation/due process.** Attorneys and advocates are an option to do this filing for you and to represent your interests with the district. Interview your attorney and/or advocate carefully. Set a strategy and stay involved. If you fail to win your case, you will be responsible for your attorney fees. Some families elect to do this process on their own.
- **File a complaint.** While complaints do not address a specific student's program, they do focus on the problems with the system and the procedures they use. An example of when a complaint is filed is when you are happy with the I.E.P. but you feel that the agreed I.E.P. document is not being implemented.
- **Buyer beware.** As in all professions, experts in special education reach different conclusions based on their perceptions and their available data. Just because the district or the family has one expert's support does not mean it will be the prevailing point of view.
- **Keep yourself focused.** Special education is for pupils with disabilities. It provides appropriate services that result in benefits for children-it does not guarantee maximum learning or success beyond general education standards. Look for positive experiences that promote your child's abilities and meet with your expectations. Teaching is very personal-it works best when you first have a relationship. For families who chart the course of special education, it will be both challenging and rewarding. Our hope for our children should not be diminished by our experiences with systems. Within that system lies the caring professional partners that can and will make the differences. The journey is yours to make and with each successful journey, the road is smoothed and widened for those that follow.

For more information, visit the Special Education Family Resource Center at the SELPA office 310-944-3217 ext, 248 or contact the Director of ADR at 310-944-3217 x 229

Created by Marc Purchin, Reviewed February 2012

Southwest SELPA

Alternative Dispute Resolution Services

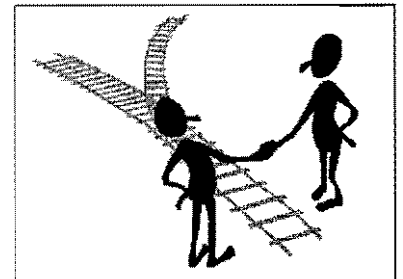
| | | |
|---------------------------|----------------------|----------------------|
| ΨTrainings | ΨResolution Sessions | ΨPre-filing Meetings |
| ΨFacilitated IEP Meetings | ΨCoaching | ΨOmbudsmanship |

Southwest SELPA is committed to helping families and schools solve problems and conflicts in the fastest and easiest way. As part of this commitment we are proud to offer the following services:

- ***Facilitated Resolution Sessions*** –a problem solving meeting between parents and the school with the help of a neutral facilitator, who will run the meeting. The resolution session could be before filing for due process
- ***Facilitated I.E.P. s*** –Have a neutral facilitator when you are concerned the IEP will be hostile or contentious I.E.P. team meeting.
- ***Pre- filing meetings*** – Schedule a mediation session before filing for due process. Bring in someone from the SELPA to help facilitate before it gets to the State level.
- ***Staff/Parent trainings*** – A variety of different workshops and trainings to meet your needs.

Training topics may include the following:

- Communication Skills
- Looking at problems from a different Perspective
- Talking about your concerns
- Negotiation Strategies
- Facilitation Skills
- Dealing with Anger
- Cultural Differences
- Tips on Working with People or Situations You Find Difficult
- Team Building
- Positive Strokes
- E-mail Etiquette (what to say and not say in e-mails)



Have special needs that are not listed?

Contact us for a custom designed training program or ADR service

Contact Marc Purchin
Director of Alternative Dispute Resolution Services
Southwest SELPA
Phone: 310-944-3217 ext. 229
E-mail: SW_ADR@lacoedu.edu or Mpurchin@purchinconsulting.com

SELPA del Sudoeste

Servicios Alternativos para Resolver Disputas

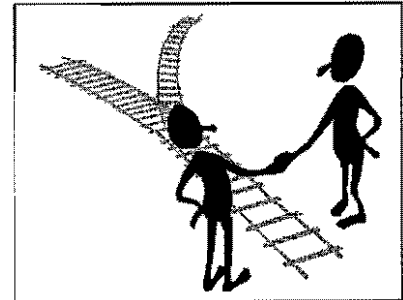
| | | |
|--------------------------------|----------------------------|-------------------------|
| ΨInstrucción | ΨEntrenamientos | ΨSesiones de Resolución |
| ΨReuniones de IEPs facilitadas | ΨReuniones Antes de Apelar | |

SELPA del Sudoeste se compromete ayudar a las familias y escuelas al resolver problemas y conflictos en el modo más fácil y más rápido. Como parte de este compromiso estamos orgullosos de ofrecer estos servicios:

- Sesiones Facilitadas de Resolución – una reunión entre padres y la escuela con la ayuda de una persona neutral, quien llevará la reunión a cabo. La sesión de resolución será antes de llegar al proceso legal.
- IEPs Facilitados – Traiga a una persona neutral cuando piense que el IEP será hostil o disputable.
- Reuniones Antes de Apelar – Pida una sesión de mediación antes del proceso legal. Traiga a un mediador de la oficina del SELPA para que le ayude a facilitar antes que llegue al nivel estatal.
- Entrenamientos para el personal escolar y para padres – Una variedad de talleres y entrenamientos diversos para satisfacer todas sus necesidades.

Temas de entrenamientos pueden incluir lo siguiente:

- Destrezas de comunicación
- Observar problemas de diversas perspectivas
- Hablar sobre sus preocupaciones
- Estrategias al negociar
- Destrezas de facilitación
- Manejar el enojo
- Diversas Culturas
- Modos de trabajar con personas o situaciones cuales usted encuentra difíciles
- La estructura de un equipo
- Movimientos positivos



¿Tiene necesidades especiales cuales no están en la lista?

Póngase en contacto para recibir un programa de entrenamiento preparado para usted o para recibir servicios de ADR.

Póngase en contacto con Marc Purchin
Coordinador de Servicios Alternativos para Resolver Disputas
SELPA del Sudoeste
Teléfono: (310) 944-3217 ext. 229
E-mail: SW_ADR@lacoed.edu or Mpurchin@purchinconsulting.com



**ASSISTIVE TECHNOLOGY CHECKLIST
EXAMPLES OF ASSISTIVE TECHNOLOGY**

California Department of Education

Note: This list is intended to provide examples of assistive technology and should not be misconstrued as a mandate for payment by any agency, including: local education agencies, California Children's Services, the California Departments of Rehabilitation, Developmental Services, or Education.

Writing

- Mechanics of Writing
- Pencil/pen with adaptive grip
- Adapted paper (e.g., raised line, highlighted lines)
- Slantboard
- Typewriter
- Portable word processor
- Computer
- Other _____

Alternate Computer Access

- Keyboard with easy access
- Keyguard
- Arm support
- Track ball/track pad/joystick with on screen keyboard
- Alternate keyboard
- Mouth stick/head pointer with standard/alternate keyboard
- Head mouse/head master/tracker with on screen keyboard
- Switch with Morse code
- Switch with scanning
- Voice recognition software
- Word prediction to reduce keystrokes
- Other _____

Composing Written Material

- Word cards/word book/word wall
- Pocket dictionary/thesaurus

- Electronic/talking electronic dictionary/thesaurus/spell checker
- Word processor with spell checker/grammar checker
- Word processor with word prediction to facilitate spelling and sentence construction
- Talking word processor for multisensory typing
- Voice recognition software
- Multimedia software for expression of ideas (assignments)
- Other _____

Reading, Studying and Math

Reading

- Changes in text size, spacing, color, background color
- Use of pictures with text
- Book adapted for page turning (e.g., page fluffers, 3-ring binder)
- Talking electronic device to pronounce challenging words
- Scanner with talking word processor
- Electronic books
- Other _____

Learning/Studying

- Print or picture schedule
- Low tech aids to find materials (e.g., index tabs, color coded folders)
- Highlight text (e.g., markers, highlight tape, ruler, etc.)
- Voice output reminders for assignments, steps of task, etc.
- Software for manipulation of objects/concept development input device (e.g., switch, touch window)
- Software for organization of ideas and studying
- Recorded material (e.g., books on tape, taped lectures with number coded index)
- Other _____

Math

- Abacus/math line
- Calculator/calculator with print out
- Talking calculator
- Calculator with large keys and/or large LCD print out

- On screen calculator

Software with templates for math computation (may use adapted input methods)

- Tactile/voice output measuring devices (e.g., clock, ruler)
 Other _____

Communication

- Communication board/book with pictures/objects/letters/words
 Eye gaze board (eye gaze communication)
 Simple voice output device
 Voice output device with levels
 Device with speech synthesis for typing
 Other _____

Activities of Daily Living (ADL)

- Adaptive eating devices (e.g., foam handle on utensil)
 Adaptive drinking devices (e.g., cup with cut out rim)
 Adaptive dressing equipment (e.g., button hook, reacher)
 Other _____

Mobility

- Walker
 Grab rails
 Manual wheelchair
 Powered mobility toy
 Powered wheelchair with joystick, head switch or sip/puff control
 Other _____

Environmental Control

- Light switch extension
 Use of universal link and switch to turn on electrical appliances (e.g., radio, fan, blender)
 Radio/ultra sound/remote controlled appliances
 Other _____

Recreation and Leisure

Adapted toys and games (e.g., toy with adaptive handle)

- Use of battery interrupter and switch to operate a toy
- Adaptive sporting equipment (e.g., lighted/bell ball, velcro mitt)
- Universal cuff to hold crayons, markers, paint brush
- Modified utensils (e.g., rollers, stampers, scissors)
- Arm rest to support arm for drawing/painting
- Drawing/graphic program on computer
- Playing games on the computer
- Music software on computer
- Other _____

Vision

- Eye glasses
- Magnifier
- Large print books
- Screen magnifier (mounted over screen)
- Screen color cornets
- Screen magnification software
- CCTV (closed-circuit television)
- Screen reader
- Braille keyboard and note taker
- Braille translation software
- Braille printer
- Other _____

Hearing

- Hearing aid
- Classroom amplification
- Captioning
- Signaling device (e.g., vibrating pager)
- TDD/TTY for phone access
- Screen flash for alert signals on computer
- Other _____

Positioning and Seating

- Non-slip surface on chair to prevent slipping
- Bolster, rolled towel, blocks for feet
- Adapted/alternate chair, side lyer, stander
- Custom fitted wheelchair or insert
- Other _____





CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

February 6, 2012

Dear Select County and District Superintendents, Charter School Administrators, High School Principals, and California High School Exit Examination Coordinators:

**UPDATE REGARDING STUDENTS WITH DISABILITIES
AND THE CALIFORNIA HIGH SCHOOL EXIT EXAMINATION**

The purpose of this letter is to provide you with information regarding students with disabilities and the California High School Exit Examination (CAHSEE). All California public school students must satisfy the CAHSEE requirement, as well as all other state and local requirements, to receive a high school diploma. Eligible students with disabilities (SWDs) in the Class of 2012 may satisfy the CAHSEE requirement by passing the examination pursuant to California *Education Code (EC)* Section 60851(a), receiving a local waiver pursuant to *EC* Section 60851(c), or qualifying for the exemption under *EC* Section 60852.3.

EC Section 60852.3 states that eligible SWDs are exempt from the CAHSEE requirement until the State Board of Education (SBE) makes a determination whether or not it is feasible to have alternative means to the CAHSEE for SWDs. In July 2010, the SBE determined that alternative means are feasible and in February 2011, the SBE adopted regulations establishing July 1, 2012 as the implementation date for the alternative means. The exemption applies to any SWD currently in grade twelve who has an individual education program (IEP) or Section 504 plan that indicates that the student is scheduled to receive a high school diploma, on or after July 1, 2009 and prior to June 30, 2012. The exemption from meeting the CAHSEE requirement ends June 30, 2012, unless regulations extending the implementation date are adopted.

The California Department of Education will be taking proposed regulations to the SBE in March 2012 that would extend the current regulatory implementation date of July 1, 2012 to January 1, 2013, which is the latest date under current law by which alternative means can be extended via regulations. Adoption of the proposed amendment to regulations would have the effect of extending the exemption through December 31, 2012. In addition, the State Superintendent of Public Instruction is sponsoring legislation to extend the implementation date of alternative means to July 1, 2015, to follow the expected implementation of the SMARTER Balanced assessments aligned to the Common Core State Standards adopted by the SBE.

February 6, 2012
Page 2

If you have any questions, please contact the High School and Physical Fitness Assessment Office by phone at 916-445-9449 or by e-mail at cahsee@cde.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah V.H. Sigman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Deborah V.H. Sigman, Deputy Superintendent of Public Instruction
District, School and Innovation Branch

DS:dp

cc: Special Education Local Plan Area Directors

**New High School Graduation Requirements
Recommended Procedures**

Per action by the Governor, students with IEPs who have met all other graduation requirements shall be eligible to receive a valid high school diploma as of July 1, 2009. This decision shall remain in effect until the State Board of Education approves an alternative assessment process for these students (anticipated later this school year).

For students who exited high school or a transition program in June, 2009 or at the end of ESY, and who have met all other graduation requirements, the following procedure is recommended:

1. Require the student to re-enroll in the district and enroll the student into either the local high school or other district program, i.e. Adult Ed.; ROP; Workability; specific class related to area of need. Note: To collect ADA, you may need to enroll the student for at least the minimum day (4 hours per day).
2. Reactivate their records, transcripts and file, making sure they appear in your district's data base, the same system that does credit and graduation checks/transcripts.
3. Hold an IEP (amendment or full IEP as appropriate based on previous IEP), to re-establish special education services. Utilizing existing data to the maximum extent possible.
4. Develop a program for the student to address transition needs:
 - Student does not have to attend school daily unless you plan to collect ADA.
 - Select a remedial class, alternative Ed class with special education consultation, independent study with special education consultation, work experience, etc.
 - All school rules regarding attendance and discipline apply and failure to adhere to rules may impact placement, services and completion of IEP requirements.
5. Encourage the student to take the CAHSEE this fall (not required). Enrollment in a preparatory class is also appropriate.
6. Hold a second IEP amendment during this fall semester.
 - This is an "exit IEP".
 - Complete credit check/graduation check.
 - Notify family and student of anticipated exit date.
 - Document that student is eligible for a diploma based on the current CDE guidance if IEP requirements are met during this semester (along with all other graduation requirements). Note: for Independent study: If your district allows a student to complete the class mid-semester for other students, then this applies to the student with an IEP as well.
 - Obtain signatures.
 - Assure that SEIS and CASEMIS are completed.
7. Exit the student at the end of the semester or as specified on the IEP once the items above have been met.
8. Assure that the district's database via the school database is current and reflects graduation requirements as having been met.
9. Issue the diploma and allow student to participate in graduation ceremonies per district policies.

**PRIOR WRITTEN NOTICE OF PROPOSED ACTION
GRADUATION FROM HIGH SCHOOL
(SAMPLE LETTER)**

Date: ___/___/___

Dear Parent and Student,

Congratulations! This letter serves as written notice that _____ is currently meeting the requirements for graduation with a regular high school diploma. As _____ is receiving special education and related services, pursuant to Federal law the District must notify you of this proposed change in placement. Your child's graduation with a regular diploma is based on his/her meeting both the State of California and School District's requirements for graduation with a regular high school diploma. As your child is currently on track to satisfy those requirements, graduation is the only valid option. Upon his or her graduation, your child will no longer be eligible for special education services. It is the District's determination that any other option, such as retention or a certificate of completion, is not appropriate for _____ at this time. Upon request, an IEP meeting may be convened to discuss this recommendation

The following information was used in making this decision:

- | | | | |
|--------------------------|---------------------|--------------------------|------------------------------------|
| <input type="checkbox"/> | IEP | <input type="checkbox"/> | Evaluation |
| <input type="checkbox"/> | Student Performance | <input type="checkbox"/> | Teacher/Information/●bservation |
| <input type="checkbox"/> | Student Behavior | <input type="checkbox"/> | Report Cards/ Statewide Assessment |
| <input type="checkbox"/> | Parent Information | <input type="checkbox"/> | Other: _____ |

Please be advised that you are entitled to procedural safeguards if you disagree with this determination. Please feel free to contact your child's school counselor if you have any questions about this matter or, if you require assistance in understanding any portion of this notice.

Sincerely,

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**{WRITTEN NOTICE TO PARENT WHEN PARENT REVOKES CONSENT TO
SPECIAL EDUCATION AND RELATED SERVICES}**

Re: Written Notice Regarding Revocation of Special Education and Related Services

Dear _____:

At the IEP meeting on ___/___/___, you advised the _____ School District that it was your intent to revoke consent in writing for the continued provision of special education and related services to your child. At the IEP meeting, the school district staff outlined the special education program and services that would be provided to your child. As you have revoked your consent to the continued provision of special education and related services, you have given up your right and your child's right to these services and your child will not be considered a child with a disability. The district is taking this action after review of your written statement. All special education and related services will be discontinued within 10 days of the date of this notice.

State and federal law and regulations provide protections and procedural safeguards for parents of students with disabilities. A statement of those protections and procedural safeguards is enclosed with this *Prior Written Notice*. By your revocation of consent for your child to receive special education and related services, these protections and procedural safeguards are no longer applicable to your child. The services and modifications that were agreed to in your child's most current IEP will no longer be available to him/her. Your child will not have any of the procedural safeguards available to students with disabilities in the event of any disciplinary action.

If you wish assistance in understanding the protections and safeguards, you may contact the special education teacher at your student's school or me.

If you wish to have your child considered for special education and related services in the future put your request in writing to the district for an assessment. If you need assistance with this process, contact the district and staff will be happy to assist you.

We have appreciated the opportunity to provide _____ with the special education and related services that the District believed were necessary for your child.

Sincerely,

Enclosure: Procedural Safeguards Notice



[ON DISTRICT LETTERHEAD]

[ADDRESS]

Re: [INSERT NAME OF STUDENT]

Dear [Parent/Addressee]:

This letter is in regards to your [son/daughter's] IEP. The District is concerned because you have not signed [INSERT STUDENT'S NAME] IEP. The District's records show that [INSERT STUDENT'S NAME] has not had a signed IEP since [INSERT DATE]. The District is requesting that you provide your written consent to [INSERT STUDENT'S NAME] IEP as soon as possible.

Under the Individuals with Disabilities Education Act (IDEA), school districts must obtain parents' informed consent before an IEP can be implemented. California Education Code section 56506 part (f) further provides that written parental consent is required prior to providing special education and related services to a student. A school district must initiate a request for due process if the sections of the IEP to which parents have not consented are necessary to provide the student with a free appropriate public education (FAPE).

The California Department of Education (CDE) has in the past issued directives to school districts that they must obtain parent signatures on IEPs in order to establish a valid IEP process. As the agency charged with responsibility for ensuring compliance with special education laws, CDE has the jurisdiction and discretion to issue such directives. A school district's failure to comply with such directives could result in substantial penalties such as the loss of program funding or other sanctions.

Enclosed please find the most recent copy of [INSERT STUDENT'S NAME] IEP. The District's records indicate that you [have not signed your consent] [only partially consented to] that IEP as of the date of this letter. The District needs your consent to the IEP in writing as a condition of providing placement and services for your child.

It is the District's understanding that there are no further issues outstanding in this case that would prevent your consenting to the IEP. You are hereby notified that if you do not consent to [INSERT STUDENT'S NAME] IEP in writing to the District within ten (10) working days of receipt of this letter, the District may have to initiate proceedings to obtain such consent.

Thank you for your attention to this matter. We look forward to receiving a signed IEP from you shortly. Please contact my office immediately if you feel you cannot provide your written consent or have any questions regarding the above or the IEP process generally.

Sincerely,

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McKinney-Vento Education for Homeless Children and Youth

The McKinney-Vento program is designed to address the problems that homeless children and youth have faced in enrolling, attending, and succeeding in school. Under this program, State educational agencies (SEAs) must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth. Homeless children and youth should have access to the educational and other services that they need to enable them to meet the same challenging State student academic achievement standards to which all students are held. In addition, homeless students may not be separated from the mainstream school environment. States and districts are required to review and undertake steps to revise laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth.

What is meant by the term “homeless children and youth”?

The McKinney-Vento Act defines “homeless children and youth” as individuals who lack a fixed, regular, and adequate nighttime residence. The term Includes:

- Children and youth who are:
 - sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as *doubled-up*);
 - living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
 - living in emergency or transitional shelters;
 - abandoned in hospitals; or
 - awaiting foster care placement;
- Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children who qualify as homeless because they are living in circumstances described above.

SCHOOL PLACEMENT, ENROLLMENT, AND ELIGIBILITY FOR SERVICES

On what basis does an LEA make school placement determinations for homeless children and youth?

Homeless children and youth frequently move, and maintaining a stable school environment is critical to their success in school. To ensure this stability, LEAs must make school placement determinations on the basis of the "best interest" of the homeless child or youth. Using this standard, an LEA must:

- (a) Continue the child's or youth's education in the school of origin for the duration of homelessness when a family becomes homeless between academic years or during an academic year; or for the remainder of the academic year if the child or youth becomes permanently housed during an academic year; or
- (b) Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

How does an LEA determine the child's or youth's "best interest"?

In determining a child's or youth's best interest, an LEA must, to the extent feasible, keep a homeless child or youth in the "school of origin" unless doing so is contrary to the wishes of the child or youth's parent or guardian. If an LEA wishes to send a homeless child or youth to a school other than the school of origin or a school requested by the parent or guardian, the LEA must provide a written explanation of its decision to the parent or guardian, together with a statement regarding the right to appeal the placement decision.

Why is it so important to maintain a stable education environment for homeless children and youth?

Changing schools significantly impedes a student's academic and social growth. The literature on highly mobile students indicates that it can take a student four to six months to recover academically after changing schools. Highly mobile students have also been found to have lower test scores and overall academic performance than peers who do not change schools. Therefore, the McKinney-Vento Act calls for LEAs to maintain students in their school of origin to the extent feasible.

What should a school district consider when determining the extent to which it is feasible to educate a homeless child or youth in his or her school of origin?

As stated above, to the extent feasible, a district must educate a homeless child or youth in his or her school of origin, unless doing so is contrary to the wishes of the parent or guardian. The placement determination should be a student-centered, individualized determination. Factors that an LEA may consider include the age of the child or youth; the distance of a commute and the

impact it may have on the student's education; personal safety issues; a student's need for special instruction (e.g., special education and related services); the length of anticipated stay in a temporary shelter or other temporary location; and the time remaining in the school year.

What procedures must an LEA follow if a dispute arises between a school and a parent or guardian regarding placement of a homeless child or youth?

If a dispute arises over school selection or enrollment, the LEA must immediately enroll the homeless student in the school in which enrollment is sought by the parent or guardian, pending resolution of the dispute. Similar provisions apply to placement of unaccompanied youth. Inter-district enrollment disputes should be resolved at the SEA level.

Homeless families and youth may be unaware of their right to challenge placement and enrollment decisions. Therefore, the LEA must provide the parent, guardian, or unaccompanied youth with a written statement of the school placement decision and the appeal rights. The LEA must refer the unaccompanied youth, parent, or guardian to the LEA liaison, who must expeditiously carry out the dispute resolution process.

When enrollment disputes arise, it is critical that students not be kept out of school. Interruption in education can severely disrupt the student's academic progress.

To avoid such disruptions, LEAs need an established process for resolving school placement disputes. Permitting students to enroll immediately in the school of choice pending resolution of disputes helps provide needed stability.

LEA homeless liaisons help ensure that disputes are resolved objectively and expeditiously. Written notice protects both students and schools by outlining the specific reasons for the school's decision. It facilitates dispute resolution by providing decision-makers with documents to guide their determinations.

In providing special services to homeless children and youth, how does a school or district avoid stigmatizing those children?

As stated above, a district or school may not segregate homeless children and youth from the mainstream school environment. Homeless children and youth are entitled to receive all of the services that are provided to their non-homeless counterparts and in the same setting as their non-homeless peers.

In some circumstances, it may be appropriate to provide additional services to homeless children and youth in a separate setting. In doing so, a district should be careful not to stigmatize these students. If a district does implement a supplemental program exclusively for homeless children, such as a shelter-based evening tutoring program, it should not be called "the homeless tutoring program" or the "shelter tutoring program." Instead, the district should use a name such as "Discovery Club" or "Homework Club" to avoid stigmatization.

What are a school's responsibilities for enrolling homeless children and youth?

A school selected on the basis of a "best interest determination" must immediately enroll the homeless child or youth, even if the child or youth is unable to produce the records normally required for enrollment (such as previous academic records, medical records, proof of residency, birth certificates, or other documentation). The enrolling school must immediately contact the school last attended by the child or youth to obtain relevant academic or other records.

If a child or youth needs to obtain immunizations, or medical or immunization records, the enrolling school must immediately refer the parent or guardian to the LEA homeless liaison, who must assist in obtaining the immunizations or records. The records must be maintained so that they are available in a timely fashion when the child enters a new school or school district. To facilitate immediate enrollment, timely transfer of records from school to school should also take into account procedures for State-to-State record transfers.

The McKinney-Vento statute provides a broad mandate to States and districts to change policies or practices that act as a barrier to the enrollment, attendance, and school success of homeless children. It is important for them to review policies and practices on an on-going basis, so that new barriers do not prevent children from receiving the free, appropriate public education to which they are entitled.

What are some steps that LEAs can take to ensure immediate enrollment?

Homeless children and youth often do not have the documents ordinarily required for school enrollment. Enrolling them in school immediately provides these children and youth needed stability and also is a legal requirement.

To facilitate immediate enrollment, LEAs should consider the following practices:

- Train all school enrollment staff, secretaries, guidance counselors, school social workers, and principals on the legal requirements regarding immediate enrollment;
- Review all regulations and policies to ensure that they comply with the McKinney-Vento requirements;

- Develop affidavits of residence or other forms to replace typical proof of residency. Such forms should be carefully crafted so that they do not create further barriers or delay enrollment;
- Develop caregiver affidavits, enrollment forms for unaccompanied youth, and other forms to replace typical proof of guardianship. Again, such forms should be carefully crafted so they do not create further barriers or delay enrollment;
- Establish school-based immunization clinics or other opportunities for on-site immunizations;
- Collaborate with community-based or public agencies to provide school uniforms within a district and among neighboring districts;
- Accept school records directly from families and youth;
- Contact the previous school for records and assistance with placement decisions;
- Develop short educational assessments to place students immediately while awaiting complete academic records;
- Inform families and youth in a language they can understand or in an accessible format, as appropriate, of their right to attend either their school of origin or local school;
- Inform families and youth in a language they can understand or in an accessible format, as appropriate, of their right to transportation and immediate enrollment;
- Develop clear, understandable, and accessible forms for written explanations of decisions and the right to appeal; and
- Expeditiously follow up on any special education and language assistance referrals or services.

Are children who are awaiting foster care placement eligible for services under the McKinney-Vento Act?

Yes, children who are awaiting foster care placement are considered homeless and eligible for McKinney-Vento services.

Children who are already in foster care, on the other hand, are not considered homeless. LEA liaisons should confer and coordinate with local public social service agency providers in determining how best to assist homeless children and youth who are awaiting foster care placement.

Are children displaced from their housing by naturally occurring disasters eligible for services under the McKinney-Vento Act?

When children and their families are displaced from their housing as a result of a natural disaster, there is often a period of instability in which various private organizations and local, State, and Federal agencies provide assistance. SEAs and LEAs should determine such children's eligibility for McKinney-Vento services on a case-by-case basis. In making this determination, they should take into consideration the services that are available through these other sources.

Following a disaster, one of the LEA's first priorities is to re-open impacted schools as soon as possible and take steps to normalize school routines. LEAs should then proceed to examine whether children who have been displaced by the natural disaster are eligible for McKinney-Vento services on a case-by-case basis. In such circumstances, the Department would provide technical assistance and other assistance, as available, to help the LEA.

What responsibilities do SEAs and LEAs have regarding providing transportation services to homeless children and youth?

SEAs and LEAs are responsible for reviewing and revising policies, including transportation policies, that may act as barriers to the enrollment and retention of homeless children and youth in schools in the State. Under the McKinney-Vento Act, homeless children and youth are entitled to receive the transportation and other services that are available to non-homeless students.

SEAs and LEAs must adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or, in the case of an unaccompanied youth, the liaison), to or from the "school of origin" (*see* definition in Appendix A) in accordance with the following requirements:

- If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange for the child's or youth's transportation to or from the school of origin.
- If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally.

How can LEAs ensure that the education of homeless students is not disrupted during inter-district transfers?

LEAs should have in place inter-district (and inter-State, where appropriate) agreements that address potential transportation issues that may arise as homeless students transfer from one district to another.

Is an LEA required to transport homeless students to and from their school of origin, if needed, while enrollment disputes are being resolved?

Yes. The McKinney-Vento Act's transportation requirements apply while disputes are being resolved. Therefore, at the request of the parent or guardian (or in the case of an unaccompanied youth, the

liaison), the LEA must provide or arrange for transportation to and from the school of origin. Inter-district transportation disputes should be resolved at the SEA level.

If an LEA does not provide transportation to non-homeless students, is it required to transport homeless students?

Yes. As discussed above, the statute not only requires an LEA to provide comparable services, including transportation services, to homeless students, it also requires an LEA, at the request of a parent or guardian, to provide or arrange for transportation to and from the school of origin.

Do LEA transportation responsibilities apply to all LEAs in the State or only to those LEAs that receive a McKinney-Vento subgrant?

This requirement applies to all LEAs in the State.

Does McKinney-Vento require an LEA to provide transportation services to homeless children attending preschool?

To the extent an LEA offers a public preschool education, McKinney-Vento requires that homeless children have equal access to that preschool education as provided to non-homeless children. Furthermore, the statute requires that the services provided to homeless children be comparable to those provided to non-homeless children. Thus, if an LEA provides transportation for non-homeless preschool children, it must also provide comparable transportation services for homeless preschool children.

The above information was taken from:

Education for Homeless Children and Youth Program Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended By The No Child Left Behind Act of 2001 Non-Regulatory Guidance

**TRANSPORTATION FOR STUDENTS UNDER AB 490
OR MCKINNEY VENTO**

AB 490 does not require transportation for foster youth, it indicates the right to continue in school of origin if it's in the child's best interest, but does not mandate transportation. However, foster youth "awaiting placement" are legally homeless under McKinney Vento and are therefore eligible for transportation.

It is the responsibility of the LEAs to adopt policies and procedures to ensure transportation is provided to and from the school of origin for those students who are in a shelter or temporary placement and awaiting a long-term placement. Transportation to and from the school of origin is to be provided if it is feasible and consistent with the wishes of the person holding educational rights and the student. The LEA is responsible to ensure that transportation is provided for the duration of the school year, even if the student moves from a shelter or temporary placement to a more permanent home. If two districts are involved, they must agree upon a method to apportion the cost and responsibility of transportation, or split it equally.

If LEAs cannot reach an agreement, the SELPA Administrator will set up a meeting to resolve the dispute.

SECTION 504 GUIDANCE

Accommodations, supports and interventions for students eligible solely under Section 504 of the Rehabilitation Act and Americans with Disabilities Act do not fall under the jurisdiction of the Southwest SELPA or district special education. The SELPA is mandated to coordinate and facilitate services to students under the Individuals with Disabilities Education Act (IDEA) only.

However, as Section 504 eligibility, requirements and services often overlap with those in the IDEA, the SELPA is frequently called upon to provide information and clarification about Section 504. Some students may be eligible for protections and services under IDEA and Section 504; others are eligible under Section 504 only.

Section 504 of the Rehabilitation Act of 1973 ("Section 504") is Congress' directive to schools receiving any federal funding to eliminate discrimination based on disability from all aspects of school operation. It states, *"No otherwise qualified individual with a disability ..., shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...."* Because the school districts in the Southwest SELPA are recipients of federal funding, they are required to provide eligible students with disabilities with equal access (both physical and academic) to services, programs, and activities offered by its schools.

There were two original main purposes to Section 504. The first purpose of Section 504 is to protect students from discrimination under federal law. The ADA provides the same protections. The laws assure access to educational services and the learning process that is equal to that given to students who do not have disabilities. All students who have a physical or mental impairment which substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment, are protected from discrimination under Section 504 and ADA.

Section 504 also requires districts to provide a free appropriate public education ("FAPE") to those students who actually have a physical or mental impairment, that substantially limits one or more major life activities. The provision of FAPE is accomplished through the creation and implementation of a Section 504 Plan. Only those students who satisfy all three of these criteria are eligible for, and are provided, regular or special education and related aids and services under Section 504. The ADA does not require provision of FAPE through a plan.

Child Find

Each district is required to make information about Section 504 available to all families in the district. In addition, school personnel are required to identify and refer students who have or are suspected of having a disability which would make him/her eligible for services under Section 504.

Eligibility

A student shall be eligible for a Section 504 Plan if they satisfy all of the following criteria:

(1) Physical or Mental Impairment

A student must actually have a mental or physical impairment. A physical or mental impairment means: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional, and specific learning disabilities. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. The law does not limit eligibility to specific diseases or categories of medical conditions.

(2) Substantially Limits

The student's physical or mental impairment must substantially limit one or more major life activities. Section 504 does not specifically define the term "substantially limits." It is subject to interpretation on a case-by-case basis. Nevertheless, an impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

Whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. Thus, the ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(3) Major Life Activities

Major life activities include, but are not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Learning, reading, concentration, thinking, and communication are typically, but not always, the major life activities utilized to determine Section 504 eligibility in the schools.

Referral

When a student is exhibiting academic, participation, attendance, social and/or behavioral problems the student's school should consider interventions through its professional team process, which may be Student Success Team (SST). This consideration should result in one of three things: general education interventions (such as tiered interventions in a Response to Instruction and Intervention (RtI) model), a referral to assess for Section 504 eligibility, and/or a referral for a special education evaluation pursuant to the Individuals with Disabilities Education Act (IDEA). If it is determined that the student should go through Section 504 Eligibility Review, copies of all intervention planning and reporting forms should be forwarded to site personnel responsible for developing the Section 504 Evaluation Plan. The parents should be given a consent

form for evaluation under "Section 504 and Parent and Student Rights". Parents also may refer the child for Section 504 consideration at any time.

Evaluation

The District shall evaluate a student who, because of a disability or suspected disability, needs, or is believed to need, special education or related services before taking any action with respect to the initial placement of the student in general or special education and any subsequent significant change in placement.

Once the district receives the signed consent for assessment, the evaluation begins. There is no timeline in the law as to how quickly the evaluation shall be completed, although the law implies it must be "reasonable." Case law seems to support a 60 day timeline as "reasonable" and 90 days as not reasonable. Therefore, adhering to a 60 day timeline is advisable.

When selecting tests and other evaluation materials, the district must ensure that they are: validated for the specific purpose for which they are used; administered by trained personnel in conformance with the instructions provided by their producer; tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

An assessment must be administered in the student's native language. The district may administer and use formal and informal measures as deemed necessary. Evaluation data may draw upon information from a variety of sources, including, but not limited to, observations, testing, reports, district evaluations, medical records, letters from doctors, health care plans, school records, etc.

If a medical assessment is necessary to determine the presence of a disability, the district must ensure that the student receives the assessment at no cost to the parents. A parent may choose to use his or her own resources to obtain a medical evaluation or arrange with the district for reimbursement for evaluation costs, however in no instance may a parent be required to pay for such an evaluation.

As part of the evaluation process, the district may consider reports from doctors, therapists and others.

Once the evaluations are completed, the District should schedule a Section 504 meeting to review the evaluations and to determine whether the student is eligible for a Section 504 Plan.

The team should decide whether the student has a physical or mental impairment that substantially limits one or more major life activities.

If the team determines that the student is eligible to receive a FAPE under Section 504, the team should develop a Section 504 Plan.

The team is made up of a group of individuals, including persons knowledgeable about each of the following: the student; the meaning of the evaluation data being reviewed; and available options for accommodations, supports and services. The team will generally include the parent/guardian and at least one of the student's general education teachers, and, may include other teachers, individuals who can interpret the instructional implications of the assessment results, intervention team members, counselors, related service providers, the student, other school staff and administrators, and individuals who have knowledge or special expertise regarding the student.

Section 504 Plan

Note on the plan the specific accommodations or interventions to be provided.

It is recommended that districts start with ideas of supports that can be provided at little or no extra cost using existing resources at the school, for example, changes in the way the information is presented or how the student is allowed to respond, or physical changes to the educational environment.

Sometimes elements in a Section 504 Plan will result in additional costs to the district or school, such as additional adult support, specialists or changes to the school building. Although there is no funding stream to school districts for these costs, failure to provide the services or supports would be a violation of the law.

A student who is eligible under Section 504 may need special education and related services to address his or her needs. In this case, an evaluation for eligibility under the IDEA may be warranted.

The Section 504 regulations do not specify a frequency of review, but note that districts should establish procedures for "periodic" review of plans. Note on the plan how often and by when the plan will be reviewed. In addition, a re-evaluation is required before a "significant change in placement."

Inappropriate Uses of Section 504 Plans

- A parent/guardian and/or doctor presents the school with a disability diagnosis and a Section 504 Plan is written without first determining if the disability causes substantial limitation of a major life activity.
- A student is placed on a Section 504 Plan solely because the parent/guardian wants the student to have additional time on college qualifying examinations (e.g., ACT, SAT).
- A student is placed on a Section 504 Plan because the student has a record of impairment or is regarded as being impaired, but the student does not actually have a disability that substantially limits a major life activity.
- A student fails to qualify for special education and related services under the IDEA, but is automatically provided with a Section 504 Plan.
- A student is automatically placed on a Section 504 Plan when the student no longer qualifies for special education services under the IDEA without first qualifying based on Section 504 criteria.

- A student is placed on a Section 504 Plan as an alternative way to receive special education and related services because the parent/guardian refuses to "label" his/her child by including him/her in a special education program; this may also apply in cases where parent/guardian has revoked consent to special education.

Discipline

In disciplinary situations, students who have a Section 504 Plan may be suspended expelled or placed in an alternative interim setting to the same extent these options would be used for children without disabilities. School personnel may also consider any unique circumstances on a case-by-case basis when determining whether a disciplinary removal is appropriate for a child with a disability who violates a code of student conduct.

However, Section 504 requires that, after a child with a disability has been suspended from his or her current placement for or ten (10) school days in the same school year, prior to any subsequent days of suspension prior to moving forward toward expulsion, a manifestation determination meeting must be held. The child's parent/guardian must be invited to participate as a member of this manifestation determination meeting. At the meeting, the team will determine (based upon a review of all relevant information in the student's cumulative file, the Section 504 Plan, any teacher observations, and any relevant information provided by the parent/guardian) whether the student's alleged behavior was a manifestation of his/her disability by answering these questions:

- Whether the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or,
- Whether the conduct in question was the direct result of District's failure to implement the student's current Section 504 Plan.

If the team answers yes to either question, the alleged misconduct shall be determined to be a manifestation of the student's disability. However, if the team answers no to both questions, the alleged misconduct shall be determined not to be a manifestation of the student's disability and the district may take disciplinary action against the student, such as continuing to suspend or recommending for expulsion, in the same manner as it would with a child without disabilities.

If the student's behavior is determined to be a manifestation of his or her disability, the district develops a positive behavior support plan for the student. If a positive behavior support plan has already been developed, the district will review the plan and modify it as necessary to address the behavior in question.

However, regardless of whether a student's behavior was a manifestation of the student's disability, the district may determine, following assessment, that a change of placement is appropriate for the student. The district may proceed with this change of placement following notice to the parents; consent is not required for a change of placement pursuant to Section 504.

IDEA AND SECTION 504: A Comparison

| Component | IDEA | Section 504 |
|---|--|---|
| Purpose | To provide federal financial assistance to state and local education agencies to assist them to educate children with disabilities. | To eliminate discrimination on the basis of disability in all programs and activities receiving federal financial assistance. |
| Who is protected? | All school-age children who fall within one or more of 13 specific categories of disability and who, because of such disability, need special education and related services (i.e., mentally retarded, hard of hearing, speech or language impaired, visually impaired, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf, deaf-blind, multiple disabled, specific learning disabled, autistic, or traumatic brain injured). | All school-age children who have a physical or mental impairment which substantially limits a major life activity have a record of such an impairment or are regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself and performing manual tasks and thinking concentrating, eating, sleeping, lifting, bending reading communicating. Section 504 protects a broader group of students than does the IDEA. |
| Duty to provide a Free and Appropriate Public Education (FAPE) | Both laws require the provision of FAPE. Section 504 defines FAPE more broadly than does the IDEA. | |
| | Requires that FAPE be provided to only those protected students who, because of disability, need special education or related services. | Requires that FAPE be provided to only those protected students who, because of disability, need regular education accommodations, special. Education or related services. |
| | Defines FAPE as special education and related services. A student can receive related services under the IDEA if and only if the student is provided special education and needs related services to benefit from special education. | Defines FAPE as regular or special education and related aids and services. A student can receive related services under Section 504 even if the student is in regular education full-time and is not provided any special education. |
| | Requires a written IEP document with specific content and a required number of specific participants at the IEP meeting. | Does not require a written IEP document, but does require a plan. It is recommended the district document that a group of persons knowledgeable about the student convened and specified the agreed upon plan of services. |

| Component | IDEA | Section 504 |
|--|---|--|
| Special Education vs. Regular Education | A student is protected by the IDEA, if and only if: because of disability, the student needs special education. | A student is protected by Section 504 regardless of whether the student needs special education. Some students protected by Section 504 are in regular education full-time and are not provided any special education. |
| Funding | Provides additional funding for protected students. | Does not provide additional funds. IDEA funds may not be used to serve students protected only under Section 504. |
| Procedural Safeguards | Both laws require prior notice to parents or guardians with respect to the identification, evaluation and/or placement of protected students. IDEA procedures will suffice for Section 504 implementation. | |
| Evaluations | Both laws require that tests and other evaluation materials: <ol style="list-style-type: none"> 1. Be validated for the specific purpose for which they are used; 2. Be administered by trained personnel in conformance with the instructions provided by their producer, 3. Include those tailored to assess specific areas of educational need; and 4. Be selected and administered to assure that the test results accurately reflect whatever factors the test purport to measure. | |
| | Requires informed consent before an initial evaluation is conducted. | Same as IDEA. |
| | Requires re-evaluations to be conducted at least every 3 years. | Requires periodic re-evaluations. IDEA schedule for re-evaluation will suffice. |
| | A re-evaluation is not required before a change of placement. However, an IEP team should review current evaluation data, including progress towards goals and objectives when considering a significant change of placement. When data are insufficient to answer questions regarding the appropriateness of the special education and related services being considered, then a re-evaluation is required. | Requires re-evaluation before a significant change in placement. |
| | Provides for independent educational evaluation at district expense if parent disagrees with evaluation obtained by school and hearing officer concurs. | No provision for independent evaluations at district expense. However, a district must carefully consider any such evaluations presented. |

| Component | IDEA | Section 504 |
|-----------------------------|---|--|
| Placement Procedures | <p>When interpreting evaluation data and making placement decisions, both laws require districts to:</p> <ol style="list-style-type: none"> 1. Draw upon information from a variety of sources; 2. Assure that all information is documented and considered; 3. Ensure that the eligibility decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options; and 4. Ensure that the student is education with his/her non-handicapped peers to the maximum extent appropriate (least restrictive environment). | |
| | An IEP meeting is required before any change in placement. | A re-evaluation meeting is required before any "significant change" in placement |
| Grievance Procedure | Does not require a grievance procedure, nor a compliance offer. | Requires districts with more than 15 employees to, (1) designate an employee to be responsible for assuring district compliance with Section 504, and (2) provide a grievance procedure for parents, students and employees. |
| Due Process | Both statues require districts to provide impartial hearings for parents or guardians who disagree with the identification, evaluation or placement of a student | |
| | Contains detailed hearing rights and requirements. | Requires notice, the right to inspect records, the right to participate in a hearing and to be represented by counsel, and a review procedure. |
| Exhaustion | Requires the parent or guardian to pursue administrative hearing before seeking redress in the courts. | Administrative hearing not required prior to OCR involvement or court action; however, claim can be dismissed if issues are based solely upon underlying IDEA claims. |
| | Enforced by the U.S. Office of Special Education Programs. Compliance is monitored by OSPI and the Office of Special Education Programs. | Enforced by the U.S. Office for Civil Rights. |
| | OSPI and CDE resolve complaints. | OSPI has no monitoring, complaint resolution or funding involvement. |

SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE (SCIA)

Introduction

Every school district within the Southwest SELPA is required to provide a full continuum of placement options for students with identified disabilities who are receiving special education services. The Individuals with Disabilities Education Act (IDEA) and California laws and regulations describe a continuum of placement such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions (CFR 300.551(b)(1)).

Each school district is comprised of highly qualified employees to service student with special education needs. Board Policies determine conditions for employee's duties, hours and contractual agreements. The following is information to assist districts when making decisions for allocating staff support.

The IDEA also defines related services as the utilization of aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate. This applies to any general education program or special education program in which the student may participate (34 CFR 300.550-300.556). There may be special circumstances when a student may need additional support in order to be successful in his/her educational placement.

A goal for any student with special needs is to encourage, promote, and maximize independence. The Individualized Education Plan (IEP) team is responsible for developing and implementing a program that promotes that independence. Natural supports and existing staff supports should be used whenever possible.

The purpose of this document is to serve as a guideline for school districts in determining the need for SCIA support.

Considerations

If the IEP team is considering Special Circumstance Instructional Assistance (SCIA) as a support for the classroom staff, the team must determine:

1. Natural supports and/or existing staff supports are not adequate for the student to participate and progress in the general education program;

2. Additional support is necessary to assist classroom staff in facilitating the student in
 - a. making adequate progress toward the annual goals and/or;
 - b. involvement in and progress in the general curriculum and/or;
 - c. participation in extracurricular and other nonacademic activities and/or;
 - d. participation with other disabled and non-disabled students
3. How the support can be faded and develop a method for systematic evaluation toward independence and more natural supports.

If the IEP team recommends an SCIA, the team is also responsible for monitoring for the appropriate time to fade the support. If not carefully monitored and evaluated on a regular basis, additional paraprofessional support can unintentionally foster dependence.

Determination of Need

In some cases, the need for SCIA support can be determined using existing data. Most often, it is anticipated that an Assessment Plan will need to be developed in order to collect necessary data to bring to the IEP team.

At regular intervals, designated members of the IEP team should use tools to collect data to determine the level of assistance needed and continue to monitor to determine if the service continues to be needed. As the student's level of independence or ability to use natural supports increases, behavior improves or the make-up of the class changes, the assistance should be faded.

It is important that the team consider each type of assistance listed below in order to determine if the student needs assistance from the SCIA with a particular activity and to estimate the amount of time that will be needed.

1. Health/Personal Care
 - a. Self-help and bathroom needs
 - b. Assistance with feeding during snack and lunch
 - c. Specialized physical health care
 - d. Assistance with medical needs (district should consider doctor's recommendations)
2. Behavior
 - a. Implementation of positive behavior support plan
 - b. Collect data related to the positive behavior support plan
3. Instruction
 - a. Curriculum adaptations under the direction of the teacher
 - b. Support to stay on-task or provide follow-up instruction
4. Inclusion

- a. Recess (maintain safety, facilitate social interaction)
- b. Assistance with transition
- c. Assistance with a particular classroom activity

The following forms may assist the team in determining the need for SCIA support:

1. Suggested Pre-Referral Activities
2. Rubric to Determine Need for Special Circumstance Instructional Assistance
3. School Day Description and Assistance Needed
4. Suggested Documentation by Area of Need

Documentation

1. If the IEP team agrees that SCIA support is needed for a particular student, the team should specify areas of need that will be supported in the notes page.
2. For each area in which SCIA support is being provided due to lack of skill or independence, the IEP team should write a goal. Some areas, such as health/personal care need may not be appropriate for goals.
3. If the additional SCIA support is required as a result of a child's behavior difficulties, the child's IEP should include a Positive Behavioral Support Plan or Behavior Intervention Plan.
4. For areas in which increase independence is possible, note the means for evaluating where the SCIA support continues to be needed on the notes page. In these cases, it is suggested the team write a systematic plan to address how the support will be monitored and faded as independence increases.
5. When a SCIA is provided to assist a child on a short-term basis (i.e. transition to a new program), the written plan should specify the level of independence to be achieved before the SCIA is faded/removed, or a date when the SCIA is discontinued.

Evaluation, Monitoring, Fading

The student's case manager is responsible for monitoring and fading of the SCIA. When it is appropriate to begin fading SCIA support, the IEP team should develop a fading plan that is included in the student's IEP. A professional, usually the case manager, should develop a system for data collection, review the data and provide the SCIA with strategies for fading and promoting increased student independence and goal attainment. The data should be reviewed

on a regular basis, make adjustments to the plan and determine when criteria for fading have been met. Major changes to the plan would require an IEP Addendum.

If there is a goal which reflects the area in which SCIA support is being provided, then data collection on progress toward that goal would be sufficient.

Guidelines for the IEP

- Develop goals and objectives that contain reduced levels of support and prompting to be used as measures of the need for SCIA support.
- Include specific plan for reinforcement of Positive Behavior Support Plan
- Specify accommodations/modifications to be provided as needed or as requested by the student.
- Specify criteria for fading measures to be used, who will review and how often in the plan for fading on the notes page.

The following forms may assist the team in developing a plan to fade SCIA support:

1. IEP Goals and Objectives Charting
2. Task Analysis Data

Pre-Referral Considerations

1. Classroom schedule:

- a. Is the classroom schedule posted? yes no
- b. The following elements are included in the classroom schedule:
- times
 - students
 - activities
 - locations
 - staff names

2. Schedule for individual student:

- a. Is there an individual student schedule? yes no
- b. Student uses the following format for individualized schedule:
- object
 - icon
 - photograph
 - word
 - picture
 - planner
- c. Student's ability to follow the schedule:
- independent
 - with physical prompts
 - with verbal prompts
 - inconsistent
 - with gesture prompts
- d. Student use of the schedule:
- student carries schedule
 - student uses transition cards
 - student goes to schedule board
 - teacher carries and shows schedule
 - inconsistent
- e. Room is arranged with structure to correlate with tasks on schedule:
- areas for one-to-one work
 - area for group work
 - area for independent work
 - area for leisure
 - not applicable

3. Curriculum and instruction:

- a. Are materials and activities differentiated for student's:
- Chronological age? Describe: _____

 - Ability level? Describe: _____

Interest level? Describe: _____

b. List equipment or devices used/available that may relate to the need for assistance: _____

4. Behavior Support:

- a. Are there problem behaviors interfering with learning? yes no
- b. Does the student have a Positive Behavior Support Plan? yes no
- c. Is the Behavior plan based on a Functional Behavior Analysis (FBA) or Functional Analysis Assessment (FAA):
 yes no in process need to initiate
- d. Are all necessary staff implementing the Positive Behavior Support Plan? yes no
- e. How effective is the plan in addressing the student's needs?
 very moderately mildly not at all
- f. Describe anticipated level of support to implement plan (i.e. frequency of reinforcement, prompting, redirection): _____
- g. What supports exist for implementing the plan? (i.e. self-monitoring, staff support): _____

5. Current data systems and collection of data:

- a. Is there current data on each IEP goal and/or behavior plan? yes no
- b. Data records include:
 date level of independence
 task level of progress
- c. Data is collected:
 daily other: _____
 weekly monthly
 Number of settings: _____
- d. Describe how the data is analyzed and used to inform decisions: _____
- e. How is the data shared with IEP members including parents? _____

6. Check and describe other supports currently provided:

training for instructional staff: _____

- consultation for the classroom staff: _____
- in-class coaching: _____
- other: _____

Suggested Documentation by Area of Need

| | |
|--|---|
| <p><u>HEALTH</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> SCIA Rubric <input type="checkbox"/> Student Schedule <input type="checkbox"/> Health Records <input type="checkbox"/> Specialized Health Care Plan <input type="checkbox"/> School Day Description | <p><u>BEHAVIOR</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Pre-referral Activities Checklist <input type="checkbox"/> SCIA Rubric <input type="checkbox"/> Student Schedule <input type="checkbox"/> Psychoeducational Reports <input type="checkbox"/> Progress Reports on IEP goals <input type="checkbox"/> Behavior Support /Intervention Plan <input type="checkbox"/> Behavioral Data <input type="checkbox"/> Discipline Referrals <input type="checkbox"/> School Day Description |
| <p><u>INSTRUCTION</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Pre-referral Activities Checklist <input type="checkbox"/> SCIA Rubric <input type="checkbox"/> Student Schedule <input type="checkbox"/> Psychoeducational Reports <input type="checkbox"/> Progress Reports on IEP goals <input type="checkbox"/> Academic progress assessments <input type="checkbox"/> School Day Description | <p><u>INCLUSION</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Pre-referral Activities Checklist <input type="checkbox"/> SCIA Rubric <input type="checkbox"/> Student Schedule <input type="checkbox"/> Psychoeducational Reports <input type="checkbox"/> Progress Reports on IEP goals <input type="checkbox"/> Academic progress assessments <input type="checkbox"/> Behavior Support/Intervention Plan <input type="checkbox"/> Behavioral Data <input type="checkbox"/> Discipline Referrals <input type="checkbox"/> Health Records <input type="checkbox"/> School Day Description |

Rubric to Determine Need for Special Circumstance Instructional Assistance

Student: _____ DOB: _____ Eligibility: _____ Date: _____

Teacher: _____ Program/School: _____

Completed by: _____ Title: _____

| | Health/Personal Care | Behavior | Instruction | Inclusion |
|----------|---|---|--|---|
| 0 | <p>General good health. No specialized health care, or procedure, or medications taken. Independently maintains all "age appropriate" personal care.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Follows adult directions without frequent prompts or class supervision. Handles change and redirection. Usually gets along with peers and adults. Seeks out friends.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participates full in whole class instruction. Stays on task during typical instruction activity. Follows directions with a few to no additional prompts.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participates in some core curriculum within general education class and requires few modifications. Can find classroom. Usually socializes well with peers.</p> <p style="text-align: right;"><input type="checkbox"/></p> |
| 1 | <p>Mild or occasional health concerns. Allergies or other chronic health conditions. No specialized health care procedure. Medication administration takes less than 10 minutes time. Needs reminders to complete "age appropriate" personal care activities.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Follows adult direction but occasionally requires additional encouragement and prompts. Occasional difficulty with peers or adults. Does not always seek out friends but plays if invited.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participates in groups at instructional level but may require additional prompts, cues, or reinforcement. Requires reminders to stay on task, follow directions, and to remain engaged in learning.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participates with modification and accommodation. Needs occasional reminders of room and schedule. Requires some additional support to finish work and be responsible. Needs some social cueing to interact with peers appropriately.</p> <p style="text-align: right;"><input type="checkbox"/></p> |
| 2 | <p>Chronic health issues, genetic health care procedure. Takes medication. Health care intervention for 10-15 minutes daily (diet, blood sugar, medication). Requires reminders and additional prompts or limited hands on assistance for washing hands, using bathroom, wiping mouth, shoes, buttons, zippers, etc. Occasional toileting accidents.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Has problems following directions and behaving appropriately. Can be managed adequately with a classroom behavior support plan, but unable to experience much success without behavior support plan implementation.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Cannot always participate in whole class instruction. Requires smaller groups and frequent verbal prompts, cues, or reinforcement. On task about 50% of the time with support. Requires more verbal prompts to follow directions. Requires signing 50%-70% of the time.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participates with visual supervision and occasional verbal prompts. Requires visual shadowing to get to class. Needs modifications and accommodations to benefit from class activities. Regular socialization may require adult facilitation.</p> <p style="text-align: right;"><input type="checkbox"/></p> |
| 3 | <p>Specialized health care procedure and medication. Limited mobility. Physical limitations requiring assistance (stander, walker, gait trainer or wheelchair). Special food prep or feeding. Health or sensory interventions 15-45 min. daily. Frequent physical prompts and direction assistance for person care. Requires toilet schedule, training, direct help, diapering.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Serious behavior problems almost daily. Defiant and/or prone to physical aggression which may be harmful to self or others. Requires a Behavior Intervention Plan (BIP) and behavior goals and objectives on the IEP. Requires close visual supervision to implement BIP.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Difficulty participating in a large group. Requires low student/staff ratio, close adult proximity, and prompts including physical assistance to stay on task. Primarily complies only with 1:1 directions and monitoring. Abilities and skills require strategies/adaptations not typical for class as a whole, such as: Discrete Trial, ABA, Structured Teaching, PECS or Assistive Technology. Requires signing over 80% of time.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Does not participate without staff in close proximity for direct instruction, safety, mobility, or behavior monitoring. Requires adult to facilitate social interaction with peers and remain in close proximity at all times. Difficulty following school routines & schedules. Needs direct support to get to & from class.</p> <p style="text-align: right;"><input type="checkbox"/></p> |
| 4 | <p>Very specialized health care procedure requiring care by specially trained employee (G tube, tracheotomy, catheterization). Takes medication, requires positioning or bracing multiple times daily. Health or sensory related interventions 45 min. or more daily. Direct assistance with most person care. Requires two-person lift. Direct 1:1 assistance 45 min or more daily.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Serious behavior problems with potential for injury to self and others, runs away or aggressive on a daily basis. FAA or FBA has been completed and the student has a well-developed BIP that must be implemented to allow the student to safely attend school. Staff has been trained in the management of assaultive behaviors.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Does not participate in a group without constant 1:1 support. Requires constant verbal and physical prompting to stay on task and follow directions. Regularly requires specific 1:1 instructional strategies to benefit from the IEP. Cognitive abilities and skills require significant accommodation and modification not typical for the class group. Requires signing 100% of the time.</p> <p style="text-align: right;"><input type="checkbox"/></p> | <p>Participation may require additional staff for direct instructional and behavioral support. Requires direct supervision going to and from class. Always requires modifications and accommodations for class work. Rarely interacts with or is interested in peers.</p> <p style="text-align: right;"><input type="checkbox"/></p> |

TECHNIQUES TO PROMOTE INDEPENDENCE

1. Watch before assisting. Can the student ask for help from the teacher or a peer? Can the student problem solve on his/her own?
2. Give the student extra time to process and respond before assisting.
3. Have high expectations as to what the student understands or can do independently.
4. Provide consistent classroom schedule (posted, visual, at desk if needed, reinforcement periods included.) Teach the student how to use it.
5. Start with the least intrusive prompts to get the student to respond:
 - a. Gestural, hand or facial signals
 - b. Timer
 - c. Verbal
 - d. Light /Partial Physical
 - e. Hand over Hand
6. Prompt, then back away to allow independent time.
7. Use strengths and weakness, likes and dislikes to motivate student participation and interest.
8. Model; guide (watch and assist); check (leave and check back)
9. Teach independence skills (raising hand, asking for help, modeling other students.)
10. Praise for independent attempts.
11. Direct the student to answer to the teacher.
12. Prompt the student to listen to the teacher's instructions. Repeat only when necessary.
13. Encourage age appropriate work habits. See what other students are doing.
14. Be aware of proximity. Sit with the student only when necessary.
15. Encourage peer assistance and partnering. Teach peers how to help, not enable.
16. Utilize self-monitoring checklists for the student.
17. Color code materials to assist with organization.
18. Use transition objects to help student anticipate/complete transition (i.e., head phones for listening center).
19. Break big tasks into steps.
20. Use backward chaining (i.e., leave the last portion of the cutting task for the student, then gradually lengthen the task).
21. Assist in encouraging a means for independent communication (i.e., PECS).
22. Provide positive feedback (Be specific to the situation).
23. Ask facilitative questions ("What comes next?" "What are other students doing?" "What does the schedule say?" "What did the teacher say?")
24. Give choices.
25. Maintain a log to track independence and need for assistance.
26. Establish teacher/Paraeducator signal to cue the Paraeducator to intervene.
27. Make sure the class perceives you are there to help everyone, not just one student.

SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANT SAMPLE GOALS AND OBJECTIVES

Health/Personal Care

By ____ when being fed via a "G-tube", student will cooperate with staff to complete the Health procedure by not pushing staff or objects away two times a day with only one verbal prompt per day for 5 consecutive days as measured by data.

1. By ____ when being fed via a "G-tube", student will cooperate with staff to complete the Health procedure by not pushing staff or objects away two times a day with physical and verbal prompts for 5 consecutive days as measured by data.
2. By ____ when being fed via a "G-tube", student will cooperate with staff to complete the Health procedure by not pushing staff or objects away two times a day with only two verbal prompts per day for 5 consecutive days as measured by data.

By ____ when being fed and food has been scooped with hand over hand prompting, student will lift spoon to mouth and put food into mouth, chew food and swallow food and return spoon to plate with no physical prompt for at least 6 times per session for 4 out of 5 consecutive days as measured by data.

1. By ____ when being fed and food has been scooped with hand over hand prompting, student will lift spoon to mouth and put food into mouth, chew food and swallow food and return spoon to plate with no physical prompt for at least 2 times per session for 4 out of 5 consecutive days.
2. By ____ when being fed and food has been scooped with hand over hand prompting, student will lift spoon to mouth and put food into mouth, chew food and swallow food and return spoon to plate with no physical prompt for at least 4 times per session for 4 out of 5 consecutive days.

By ____ when being toilet trained, student will participate in the toileting routine (pull pants down, sit/stand at toilet, use toilet paper, pull pants up, flush, wash hands) and remain dry throughout the day for 4 out of 5 trial days as measured by staff data.

1. By ____ when being toilet trained, student will participate in the toileting routine (pull pants down, sit/stand at toilet, use toilet paper, pull pants up, flush, wash hands) and remain dry throughout the day for 2 out of 5 trial days as measured by staff data.
2. By ____ when being toilet trained, student will participate in the toileting routine (pull pants down, sit/stand at toilet, use toilet paper, pull pants up, flush, wash hands) and remain dry throughout the day for 3 out of 5 trial days as measured by staff data.

Behavior

By ____ when in a conflict situation, student will request staff assistance to solve the problem without name calling or hitting others 4 out of 5 occasions over 5 consecutive trial days as measured by data.

1. By ____ when in a conflict situation, student will request staff assistance to solve the problem without name calling or hitting others 2 out of 5 occasions over 5 consecutive trial days as measured by data.
2. By ____ when in a conflict situation, student will request staff assistance to solve the problem without name calling or hitting others 3 out of 5 occasions over 5 consecutive trial days as measured by data.

By ____ when given a direction, student will follow that direction within 30 seconds without protest or complaining 4 out of 5 requests for 5 consecutive trial days as measured by staff.

1. By ____ when given a direction, student will follow that direction within 30 seconds with no more than 3 protests or complaints 4 out of 5 requests for 5 consecutive trial days as measured by staff.
2. By ____ when given a direction, student will follow that direction within 30 seconds with no more than 1 protest or complaint 4 out of 5 requests for 5 consecutive trial days as measured by staff.

By ____ during unstructured time, student will keep hands and feet to self and refrain from negative comments to others with at least 20 points earned for behavior for 5 consecutive days as measured by staff data records.

1. By ____ during unstructured time, student will keep hands and feet to self with at least 20 points earned for behavior for 5 consecutive days as measured by staff data records.
2. By ____ during unstructured time, student will refrain from negative comments to others with at least 20 points earned for behavior for 5 consecutive days as measured by staff data records.

By ____ when work becomes difficult or tiring the student will ask for adult help to complete school tasks instead of verbal outbursts on 4 out of 5 situations over 5 trial days as measured by staff data.

1. By ____ when work becomes difficult or tiring the student will ask for adult help to complete school tasks instead of verbal outbursts on 4 out of 5 situations over 5 trial days as measured by staff data.
2. By ____ when work becomes difficult or tiring the student will ask for adult help to complete school tasks instead of verbal outbursts on 4 out of 5 situations over 5 trial days as measured by staff data.

Instruction

By ___ student will compose/write a complete sentence including correct grammar, syntax and spelling with 80% accuracy for 5 consecutive trial days as measured by work samples.

1. By ___ student will compose/write a complete sentence including correct grammar and syntax spelling with 80% accuracy for 5 consecutive trial days as measured by work samples.
2. By ___ student will compose/write a complete sentence including correct spelling with 80% accuracy for 5 consecutive trial days as measured by work samples.

By ___ student will improve comprehension skills by answering questions on main idea and specific details following reading of short stories within his reading level with 75% accuracy for 5 consecutive trial days as measured by test results.

1. By ___ student will improve comprehension skills by answering questions on main idea following reading of short stories within his reading level with 75% accuracy for 5 consecutive trial days as measured by test results.
2. By ___ student will improve comprehension skills by answering questions on specific details following reading of short stories within his reading level with 75% accuracy for 5 consecutive trial days as measured by test results.

By ___ when given two objects that are same as the staff's, student will match the like object 4 out of 5 times for 5 consecutive trial days as measured by staff data.

1. By ___ when given two objects that are same as the staff's, student will match the like object 4 out of 5 times for 5 consecutive trial days as measured by staff data.
2. By ___ when given two objects that are same as the staff's, student will match the like object 4 out of 5 times for 5 consecutive trial days as measured by staff data.

By ___ when given a matching work task with at least 10 items to be sorted, student will sort items into two different categories with 8 out of 10 correct for 5 consecutive trial days as measured by staff data.

1. By ___ when given a matching work task with at least 10 items to be sorted, student will sort items into two different categories with 8 out of 10 correct for 5 consecutive trial days as measured by staff data.
2. By ___ when given a matching work task with at least 10 items to be sorted, student will sort items into two different categories with 8 out of 10 correct for 5 consecutive trial days as measured by staff data.

Inclusion

By ___ student will participate in a general education kindergarten class by following directions given to whole class, with no prompts, 4 of 5 times on 5 consecutive trial days as measured and recorded by staff.

1. By ___ student will participate in a general education kindergarten class by following directions given to whole class, with verbal prompts, 4 of 5 times on 5 consecutive trial days as measured and recorded by staff.
2. By ___ student will participate in a general education kindergarten class by following directions given to whole class, with gestural or indirect prompts, 4 of 5 times on 5 consecutive trial days as measured and recorded by staff.

By ___ student will participate in a general education 3rd grade class by completing the modified classwork, as developed by the teacher and instructional assistant with 75% accuracy over 5 consecutive trial days as measured by student work.

1. By ___ student will participate in a general education 3rd grade class by completing the modified classwork, as developed by the teacher and instructional assistant with 75% accuracy over 2 consecutive trial days as measured by student work.
2. By ___ student will participate in a general education 3rd grade class by completing the modified classwork, as developed by the teacher and instructional assistant with 75% accuracy over 4 consecutive trial days as measured by student work.

STATE COMPLAINT PROCEDURES OVERVIEW

Anyone, including a parent, who believes there has been a violation of state or federal special education law or regulations, may file a state compliance complaint. The complaint process applies to any student who has been referred, assessed or identified for special education services. The written complaint must specify at least one alleged violation of federal and state special education laws. The violation must have occurred not more than one year prior to the date the complaint is received by the California Department of Education (CDE). When filing a complaint, parents must forward a copy of the complaint to the school district at the same time you file a state compliance complaint with the CDE. The state-level investigation and final report must be completed within 60 days of CDE receiving the complaint unless an extension is granted due to exceptional circumstances.

Complaints alleging violations of federal and state special education laws or regulations may be mailed to:

**California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814**

For complaints involving issues **not** covered by federal or state special education laws or regulations, the district's uniform complaint procedures are followed.

Legal Basis for State Compliance Complaints

- The California Department of Education shall directly intervene without waiting for local educational agency investigation in certain situations. For complaints relating to special education, any one of the following shall be a condition for direct state intervention: The complainant alleges that a public agency, other than a local educational agency fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities;
- The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;
- The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.

SECTION 14.8

- The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).
- The complaint involves a violation of federal law governing special education or its implementing regulations.

The complaint shall identify the basis for filing the complaint directly to the Department. The Complainant must present the Department with clear and verifiable evidence that supports for the direct filing.



Testing Variations, Accommodations, and Modifications

Note: Refer to the *California Code of Regulations*, Title 5, Education, for each specific assessment program for more detail.

Matrix 1. Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments

| Test Variation (1) Accommodation (2) Modification (3) | STAR Program | | | | | |
|--|--------------|-----|-----|--------|-------|----------------|
| | CST | CMA | STS | CAHSEE | CELDT | PFT |
| Test administration directions that are simplified or clarified (does not apply to test questions) | ALL | ALL | ALL | ALL | ALL | ALL |
| Student marks in test booklet (other than responses) including highlighting | ALL | ALL | ALL | ALL | ALL | Not Applicable |
| Test students in a small group setting | ALL | ALL | ALL | ALL | ALL | ALL |
| Extra time on a test within a testing day | ALL | ALL | ALL | ALL | ALL | ALL |
| Test individual student separately, provided that a test examiner directly supervises the student | 1 | 1 | 1 | 1 | 1 | 1 |
| Visual magnifying equipment | 1 | 1 | 1 | 1 | 1 | Not Applicable |
| Audio amplification equipment | 1 | 1 | 1 | 1 | 1 | 1 |
| Noise buffers (e.g., individual carrel or study enclosure) | 1 | 1 | 1 | 1 | 1 | Not Applicable |
| Special lighting or acoustics; special or adaptive furniture | 1 | 1 | 1 | 1 | 1 | Not Applicable |
| Colored overlay, mask, or other means to maintain visual attention | 1 | 1 | 1 | 1 | 1 | Not Applicable |
| Manually Coded English or American Sign Language to present directions for administration (does not apply to test questions) | 1 | 1 | 1 | 1 | 1 | 1 |

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| All | All students may be provided these test variations. |
| Test Variation (1) | Students may have these testing variations if regularly used in the classroom. |
| Accommodation (2) | Eligible students shall be permitted to take the examination/test with accommodations if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |
| Modification (3) | For the STAR Program (CST and STS only) and CELDT, eligible students shall be permitted to take the tests with modifications if specified in the eligible student's IEP or Section 504 plan. Eligible students shall be permitted to take the CAHSEE with modifications if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |



| Test Variation (1) Accommodation (2) Modification (3) | STAR Program | | | CAHSEE | CELDT | PFT |
|--|--------------|-----|----------------|--------|-------|----------------|
| | CST | CMA | STS | | | |
| Student marks responses in test booklet and responses are transferred to a scorable answer document by an employee of the school, district, or nonpublic school | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Student dictates multiple-choice question responses orally, or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter for selected-response items | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Word processing software with spell and grammar check tools turned off for the essay responses (writing portion of the test) | 2 | 2 | Not Applicable | 2 | 2 | Not Applicable |
| Essay responses dictated orally or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter and the student provides all spelling and language conventions | 2 | 2 | Not Applicable | 2 | 2 | Not Applicable |
| Assistive device that does not interfere with the independent work of the student on the multiple-choice and/or essay responses (writing portion of the test) | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Braille transcriptions provided by the test contractor | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Large-print versions or test items enlarged (not duplicated) to a font size larger than that used on large print versions | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Test over more than one day for a test or test part to be administered in a single sitting | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Supervised breaks within a section of the test | 2 | 2 | 2 | 2 | 2 | Not Applicable |
| Administration of the test at the most beneficial time of day to the student | 2 | 2 | 2 | 2 | 2 | 2 |
| Test administered at home or in hospital by a test examiner | 2 | 2 | 2 | 2 | 2 | 2 |

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| All | All students may be provided these test variations. |
| Test Variation (1) | Students may have these testing variations if regularly used in the classroom. |
| Accommodation (2) | Eligible students shall be permitted to take the examination/test with accommodations if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |
| Modification (3) | For the STAR Program (CST and STS only) and CELDT, eligible students shall be permitted to take the tests with modifications if specified in the eligible student's IEP or Section 504 plan. Eligible students shall be permitted to take the CAHSEE with modifications if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |

| Test Variation (1) Accommodation (2) Modification (3) | STAR Program | | | CAHSEE | CELDT | PFT |
|---|--|------------------------------------|--------------------------------|-------------------|---|----------------|
| | CST | CMA | STS | | | |
| Manually Coded English or American Sign Language to present test questions and answer options | 2 Math, Science, History-Social Science | 2 Math and Science | 2 Math | 2 Math | 2 Writing | Not Applicable |
| | 3 ELA | 2 ELA (excludes passages) | 3 Reading, Language Arts | 3 ELA | 3 Reading, Listening, Speaking | |
| | 2 Writing Task | 2 Writing Task | Not Applicable | 2 Writing Task | | |
| Test questions and answer options read aloud to student or used audio CD presentation | 2 Math, Science, History-Social Science | 2 Math and Science | 2 Math | 2 Math | 2 Writing | Not Applicable |
| | 3 ELA | 2 ELA (excludes passages) | 3 Reading, Language Arts | 3 ELA | 3 Reading | |
| | 2 Writing Task | 2 Writing Task | Not Applicable | 2 Writing Task | | |
| Calculator on the mathematics tests | 3 | 2 Grade 5 only | 3 | 3 | Not Applicable | Not Applicable |
| Calculator on the science tests | 3 | Not Applicable | Not Applicable | Not Applicable | Not Applicable | Not Applicable |
| Arithmetic table or formulas (not provided) on the mathematics tests | 3 | Not Applicable | 3 | 3 | Not Applicable | Not Applicable |
| Dictionary | 3 | Not Applicable | 3 | 3 | 3 | Not Applicable |
| Arithmetic table or formulas (not provided) on the science tests | 3 | Not Applicable | Not Applicable | Not Applicable | Not Applicable | Not Applicable |

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| All | All students may be provided these test variations. |
| Test Variation (1) | Students may have these testing variations if regularly used in the classroom. |
| Accommodation (2) | Eligible students shall be permitted to take the examination/test with accommodations if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |
| Modification (3) | For the STAR Program (CST and STS only) and CELDT, eligible students shall be permitted to take the tests with modifications if specified in the eligible student's IEP or Section 504 plan. Eligible students shall be permitted to take the CAHSEE with modifications if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |

| Test Variation (1) Accommodation (2) Modification (3) | STAR Program | | | CAHSEE | CELDT | PFT |
|--|-------------------------------------|-------------------------------------|-------------------------------------|---|--------------------------------------|---|
| | CST | CMA | STS | | | |
| Math manipulatives on the mathematics tests | 3 | 2 | 3 | 3 | Not Applicable | Not Applicable |
| Math manipulatives on the science tests | 3 | 2 | Not Applicable | Not Applicable | Not Applicable | Not Applicable |
| Word processing software with spell and grammar check tools enabled on the essay responses writing portion of test | 3 | Not Applicable | Not Applicable | 3 | 3 | Not Applicable |
| Essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe audio recorder, or speech-to-text converter (scribe provides spelling, grammar, and language conventions) | 3 | Not Applicable | Not Applicable | 3 | 3 | Not Applicable |
| Assistive device that interferes with the independent work of the student on the multiple-choice and/or essay responses | 3 | Not Applicable | 3 | 3 | 3 | Not Applicable |
| Unlisted Accommodation | Check with STAR Office prior to use | Check with STAR Office prior to use | Check with STAR Office prior to use | Check with CAHSEE/PFT Office prior to use | Check with CELDT Office prior to use | Check with CAHSEE/PFT Office prior to use |
| Unlisted Modification | Check with STAR Office prior to use | Not Applicable | Check with STAR Office prior to use | Check with CAHSEE/PFT Office prior to use | Check with CELDT Office prior to use | Check with CAHSEE/PFT Office prior to use |

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|--------------------|--|
| All | All students may be provided these test variations. |
| Test Variation (1) | Students may have these testing variations if regularly used in the classroom. |
| Accommodation (2) | Eligible students shall be permitted to take the examination/test with accommodations if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |
| Modification (3) | For the STAR Program (CST and STS only) and CELDT , eligible students shall be permitted to take the tests with modifications if specified in the eligible student's IEP or Section 504 plan. Eligible students shall be permitted to take the CAHSEE with modifications if specified in the eligible student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment. |

Matrix 2. Matrix of Test Variations for Administration of California Statewide Assessments for English Learners

Because the CELDT and STS are tests specifically for English learners (ELs), there are not separate guidelines for administering the CELDT and the STS to this population. Please refer to the Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments, the first table in this section, for additional variations for all students, including English learners.

| Test Variation | STAR Program | | CAHSEE | PFT |
|---|--|---------------------------------------|-------------------|-------------------|
| | CST | CMA | | |
| Hear the test directions printed in the test administration manual translated into the student's primary language. Ask clarifying questions about the test directions in the student's primary language. | Variation Allowed | Variation Allowed | Variation Allowed | Variation Allowed |
| Additional supervised breaks within a testing day or following each section (STAR) within a test part provided that the test section is completed within a testing day. A test section is identified by a "STOP" at the end of it. | Variation Allowed | Variation Allowed | Variation Allowed | Not Applicable |
| English learners (ELs) may have the opportunity to be tested separately with other ELs provided that the student is directly supervised by an employee of the school who has signed the test security affidavit and the student has been provided such a flexible setting as part of his/her regular instruction or assessment. | Variation Allowed | Variation Allowed | Variation Allowed | Variation Allowed |
| Access to translation glossaries/word lists (English-to-primary language). Glossaries/word lists shall not include definitions or formulas. | Variation Allowed Math, Science History-Social Science | Variation Allowed Math and Science | Variation Allowed | Not Applicable |
| | Not Allowed ELA | Not Allowed ELA | | |

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California Modified Assessment Participation Criteria and Definition of Terms

California Modified Assessment Participation Criteria

These criteria for guiding individualized education program (IEP) teams in making decisions about which students with disabilities should participate in the California Modified Assessment (CMA) are based, in part, on Title 34 of the Code of Federal Regulations, Part 200—Title I—Improving the Academic Achievement of the Disadvantaged.

1. Previous Participation

CST

The student shall have taken the California Standards Test (CST) in a previous year and scored Below Basic or Far Below Basic in the subject area being assessed by the CMA and may have taken the CST with modifications.

CAPA

Previous participation in the California Alternate Performance Assessment (CAPA) shall not preclude a student from participation in the CMA.

The student shall have taken the CAPA Level 2–5 in two previous years and received a performance level of either Proficient or Advanced

Note: The student shall not be allowed to take both the CAPA and CMA. Students shall take either:

- CAPA in all subject areas;
- CST in all subject areas;
- CMA in all subject areas; or
- a combination of CST and CMA in the subject areas being assessed.

Criteria for Science

Since the science assessments are not given prior to grade five, a student may fill the first participation criterion if the student:

- has taken the California Standards Test (CST) in a previous year, and
- scored Below Basic or Far Below Basic in English-language arts (ELA) or mathematics, and may have taken the CST with accommodations and/or modifications.

2. Progress Based On Multiple Measures and Objective Evidence

The student's disability has precluded the student from achieving grade-level proficiency, as demonstrated by such objective evidence as the student's performance on the CST and other assessments that can validly document academic achievement within the year covered by the student's IEP plan. The determination of the student's progress must be based on multiple measurements, over a period of time that are valid for the subjects being assessed.

The student will not receive a proficient score on the CST (even with provision of accommodations) based on evidence from multiple, valid, and objective measures of student progress (or lack of progress)

3. Response To Appropriate Instruction

The student's progress to date in response to appropriate grade-level instruction, including special education and related services designed to address the student's individual needs, is such that, even if significant growth occurs, the IEP team is reasonably certain that the student will not achieve grade-level proficiency within the year covered by the student's IEP plan.

The student who is assessed with the CMA has access to the curriculum, including instruction and materials for the grade in which the student is enrolled

The student's IEP plan includes grade-level California content standards-based goals and support in the classroom for a subject or subjects assessed by the CMA.

The student has received special education and related services to support access to and progress in the general curriculum in which the student is enrolled

The IEP team has determined that the student will not achieve grade-level proficiency even with instructional intervention

Criteria for Science

The participation criteria requirement (above) that an IEP include "grade-level California content standards-based goals and supports in the classroom for a subject or subjects assessed by the CMA" has caused confusion for IEP teams.

Traditionally, IEP goals address English-language arts, math, and prerequisite skills. Other content areas are usually addressed by related goals, supports and related services. Science for example, might be addressed by having a goal for vocabulary development that can support the student learning science vocabulary, and in the science classroom, can aid the student in gaining access to the science curriculum.

4. High School Diploma

The student who takes alternate assessments based on modified academic achievement standards is not precluded from attempting to complete requirements, as defined by the State, for a regular high school diploma.

Note: Students must continue to meet the California High School Exit Examination (CAHSEE) requirement in order to receive a diploma from a California public high school.

5. Parents Are Informed

Parents of the students selected to be assessed with the CMA are informed that their child's achievement will be measured based on modified achievement standards.

Note: The test, while based on grade level content, is less rigorous than the CST.

California Modified Assessment Additional Decision Making Considerations for CMA

1. The decision to participate in the CMA is *not* based on the amount of time the student is receiving special education services.
2. The decision to participate in the CMA is *not* based on excessive or extended absences.
3. The decision to participate in the CMA is *not* based on language, culture, or economic differences.
4. The decision to participate in the CMA is *not* based solely on the student's disability (i.e., deafness/blindness, visual, auditory and or motor disabilities) but rather the student's inability to appropriately demonstrate his or her knowledge on the California content standards through the CST.
5. The decision to use the CMA is an IEP team decision based on student needs.

California Modified Assessment Definition of Terms

CAPA is designed to assess those students with significant cognitive disabilities who cannot participate in the CST or the CMA even with accommodations and/or modifications. The CDE developed CAPA to comply with the requirements of the No Child Left Behind Act of 2001. CAPA links directly to the California academic content standards at each grade level and accurately reflects the portions of the content standards from Kindergarten through high school that are accessible to students with significant cognitive disabilities. CAPA is given in grade spans (Levels I - V).

CMA is designed to assess those students whose disabilities preclude them from achieving grade-level proficiency on an assessment of the California content standards with or without accommodations. The CMA has been developed to provide more access so students can better demonstrate their knowledge of the California content standards. The CDE developed CMA to comply with the flexibility offered through the provisions of the No Child Left Behind Act of 2001.

CST in English-language arts, mathematics, science, and history-social science are administered only to students in California public schools. Except for a writing component that is administered as part of the grade four and seven English-language arts tests, all questions are multiple-choice. These tests were developed specifically to assess students' knowledge of the California content standards.

California content standards were adopted by the State Board of Education and specify what all California children are expected to know and be able to do in each grade or course.

Goals are those written by the IEP team, while not inclusive, for reading, writing, and mathematics and may include support for those areas in additional courses or study.

Grade-level proficiency refers to the student's level of knowledge and degree of mastery of the California Content Standards for the subjects being assessed. This grade-level proficiency should not be confused with the STAR Performance Levels as reported on the STAR student report

Objective evidence is the most recent data available for the student's performance on the California Standards Test (CST), CAPA, or CMA and locally used assessments and/or assignments, whether used for placement, diagnosis or to track student progress throughout the year.

Modified academic achievement standards are used to measure the student's achievement on the California Modified Assessment; are aligned to the California content standards, but less difficult than the grade-level academic achievement standards; and are developed through a validated standard setting process.

Multiple Measures are various assessments and/or instruments, including STAR program assessments, as well as locally used assessments and/or assignments, whether used for placement, diagnosis or to track student progress throughout the year.

Valid refers to the degree to which evidence and theory support the intended purpose of the test and the interpretation of test scores for the subjects being assessed.

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California Alternate Performance Assessment Participation Criteria

Eligibility for CAPA is based on a student's individualized education program (IEP) that reflects an emphasis on curricular instruction of the California contents standards based on alternate achievement standards. In order to aid an IEP team in its determination of whether a student should be assessed by the CAPA, the following shall be considered:

Circle "Agree" or "Disagree" for each task:

- | | | |
|-------|----------|---|
| Agree | Disagree | The student demonstrates academic/cognitive ability and adaptive behavior that require substantial adjustments to the general curriculum. The student may participate in many of the same activities as his or her nondisabled peers; however, his or her learning objectives and expected outcomes focus on the functional applications of the general curriculum. |
| Agree | Disagree | The student cannot address the performance level assessed in the statewide assessment, even with accommodations or modifications. |
| Agree | Disagree | The decision to participate in the alternate assessment is <i>not</i> based on the amount of time the student is receiving special education services. |
| Agree | Disagree | The decision to participate in the alternate assessment is <i>not</i> based on excessive or extended absences. |
| Agree | Disagree | The decision to participate in the alternate assessment is <i>not</i> based on language, cultural, or economic differences. |
| Agree | Disagree | The decision to participate in the alternate assessment is <i>not</i> based on deafness/blindness, visual, auditory, and/or motor disabilities. |
| Agree | Disagree | The decision to participate in the alternate assessment is <i>not primarily</i> based on a specific categorical label. |
| Agree | Disagree | The decision for alternate assessment is an IEP team decision, rather than an administrative decision. |

If the answer to any of these questions is "Disagree," the team should consider including the student in either the California Standards Tests (with the use of any necessary accommodations or modifications) or the California Modified Assessment (grades 3–5 only).



CAPA PARTICIPATION CRITERIA

California Alternate Performance Assessment (CAPA) Participation Criteria assists Individualized Education Program teams in determining how a student should participate in the Standardized Testing & Reporting (STAR) Program.

Test site coordinators are responsible for having students' Individualized Education Plans (IEPs) reviewed to determine if the students will take the California Standards Tests (CSTs) with no accommodations or modifications, take the CSTs with accommodations and/or modifications, take the California Modified Assessment (CMA), or take the CAPA. Since examiners may adapt the CAPA based on students' instruction mode, accommodations and modifications do not apply to CAPA.

IEP teams determine how students with disabilities will participate in the STAR Program. If the IEP team determines that the student should be assessed with the CAPA, the IEP team is also responsible for determining if the student should take the grade-assigned CAPA level or CAPA Level I. This information is included on each student's IEP. Students with grade-level designations on their IEPs **must** take either CAPA Level I or the CAPA level designated for their individual grade level.

Table 1. CAPA Levels.

| CAPA Level | Grade Range | Subjects |
|------------|-------------|--------------------|
| I | 2-11 | ELA, Math, Science |
| II | 2 & 3 | ELA, Math |
| III | 4 & 5 | ELA, Math, Science |
| IV | 6-8 | ELA, Math, Science |
| V | 9-11 | ELA, Math, Science |

Students who repeat grade eleven for multiple years continue to take CAPA Level I or Level V as their statewide assessment until enrolled in grade 12.

Desired Results Developmental Profile (DRDP) Access

Overview of Requirements for Preschool Special Education: The following Overview of Requirements of Preschool Special Education and Timeline for DRDP Assessment System Data Collection and Reporting provide important information for assessors and administrators.

Eligible Children: All 3, 4, and 5-year-old preschoolers who have IEPs, regardless of instructional setting or services received, must be assessed using DRDP access. Children must enter preschool: before November 1st to be included in the fall assessment, and before April 1st to be included in the spring assessment.

Assessment Points: Assessors should continually observe children and document their progress on the DRDP access for children with IEPs. Based on those observations and documentation, children's progress will be rated and reported on the DRDP access two times a year, once in the fall and once in the spring.

IEP Team Responsibilities: All children with IEPs will be administered the DRDP access in the Fall and in the Spring. The IEP team is responsible for documenting the adaptations that each child uses regularly and will therefore use for this assessment.

Assessor Responsibilities: The person responsible for making sure the assessment is completed is the primary IEP service provider, which includes credentialed classroom special education teachers, speech/language pathologists, and other itinerant staff.

- The primary IEP service provider will be responsible for collecting documentation and reporting data twice a year for each child.
- When a child receives special education services and is enrolled in an early childhood program, all of the child's service providers should collaborate in completing the assessment. DRDP results will be reported to both SED and CDD, according to the requirements of each Division.
- Special education administrators will determine the assessor in special circumstances, for example children served solely by California Children's Services, Non-Public Schools, and Non-Public Agents.

Reporting Data: DRDP data will be reported to CDE through the Special Education Information System (SEIS).

ACRONYMS

| | |
|----------|---|
| AAC | Augmentative Alternative Communication |
| ABA | Applied Behavioral Analysis |
| ACSA | Association of California School Administrators |
| ACSE | Advisory Commission on Special Education |
| ADA | American with Disabilities Act |
| ADA | Average Daily Attendance |
| ADR | Alternative Dispute Resolution |
| AIR | American Institutes for Research |
| ALJ | Administrative Law Judge |
| APE | Adapted Physical Education |
| API | Academic Performance Index |
| ARRA | American Recovery and Reinvestment Act |
| AT | Assistive Technology |
| AU | Administrative Unit |
| AYP | Adequate Yearly Progress |
| BCBA | Board Certified Behavioral Analyst |
| BD | Behavior Disorder |
| BER | Behavior Emergency Report |
| BHRS | Behavioral Health and Recovery Services |
| BICM | Behavior Intervention Case Manager |
| BIP | Behavior Intervention Plan |
| CAFSE | Coalition for Adequate Funding for Special Education |
| CAC | Community Advisory Committee |
| CAHSEE | California High School Exit Exam |
| CALPADS | California Longitudinal Pupil Achievement Data System |
| CalSTAT | California Services for Technical Assistance and Training |
| CALTIDES | California Longitudinal Teacher Information Data Education System |
| CAPA | California Alternate Performance Based Assessment |
| CASEMIS | California Special Education Management Information System |
| CBI | Community Based Instruction |
| CCF | Community Care Facility |
| CCR | California Code of Regulations |
| CCS | California Children Services |
| CDE | California Department of Education |
| CEIS | Coordinated Early Intervening Services |
| CELDT | California English Language Development Test |
| CFR | Code of Federal Regulations |
| CMA | California Modified Assessment |
| CMH | County Mental Health |
| COE | County Office of Education |
| COLA | Cost of Living Adjustment |

| | |
|--------|---|
| COTA | Certified Occupational Therapy Assistant |
| CSS | Communication Severity Scales |
| DDS | Department of Developmental Services |
| DHH | Deaf/Hard of Hearing |
| DHS | Department of Health Services |
| DIBELS | Dynamic Indicators of Basic Early Literacy |
| DIS | Designated Instructional Service |
| DMH | Department of Mental Health |
| DOF | Department of Finance |
| DOL | District of Location |
| DOR | District of Residence |
| DRDP | Desired Results Developmental Profile |
| DTT | Discrete Trial Training |
| EC | Education Code |
| ECE | Early Childhood Education |
| ED | Emotional Disturbance |
| EL | English Learner |
| ELA | English/Language Arts |
| ESEA | Elementary and Secondary Education Act |
| ESY | Extended School Year |
| FAA | Functional Analysis Assessment |
| FAPE | Free and Appropriate Public Education |
| FBA | Functional Behavioral Assessment |
| FERPA | Family Educational Rights and Privacy Act |
| FFA | Foster Family Agency |
| FFH | Family Foster Home |
| FIEP | Facilitated Individualized Education Program |
| FMTA | Focused Monitoring and Technical Assistance |
| FRC | Family Resource Center |
| FTE | Full time equivalent |
| HIPAA | Health Insurance Portability and Accountability Act |
| HOH | Hearing of Hearing |
| HOUSSE | High, Objective, Uniform State Standards of Evaluation |
| HQ | Highly Qualified |
| HRC | Harbor Regional Center |
| IA | Instructional Assistant |
| ID | Intellectual Disability |
| IDEA | Individualized with Disabilities Education Act |
| IDEIA | Individuals with Disabilities Education Improvement Act |
| IHE | Institute of Higher Education |
| ISA | Individual Service Agreement (for NPS/NPA) |
| IAES | Interim Alternative Educational Setting |
| ICF | Intermediate Care Facility |

| | |
|------------------|--|
| IEE | Independent Educational Evaluation |
| IEP | Individualized Educational Program |
| ISP | Individual Services Plan |
| IFSP | Individual Family Service Plan |
| ITP | Individual Transition Plan |
| IWEN | Individual with Exceptional Needs |
| JPA | Joint Powers Agreement |
| LAO | Legislative Analyst's Office |
| LAS | Language and Speech |
| LCI | Licensed Children's Institution |
| LEA | Local Educational Agency |
| LI | Low Incidence |
| LRE | Least Restrictive Environment |
| MOE | Maintenance of Effort |
| MTU | Medical Therapy Unit |
| MOU | Memorandum of Understanding |
| NASDSE | National Association of State Directors of Special Education |
| NCLB | No Child Left Behind |
| NOI | Notice of Insufficiency |
| NPS/NPA | Non-Public Schools/Non-Public Agencies |
| OAH | Office of Administrative Hearings |
| OCR | Office of Civil Rights |
| OHI | Other Health Impairment |
| OI | Orthopedic Impairment |
| O&M | Orientation and Mobility |
| OOHC | Out of Home Care |
| OSEP | Office of Special Education Programs |
| OSERS | Office of Special Education and Rehabilitative Services |
| OT/PT | Occupational and Physical Therapy |
| PDD | Pervasive Developmental Disorder |
| PECS | Picture Exchange Communication System |
| PENT | Positive Environment, Network of Trainers |
| PS | Program Specialists |
| PWN | Prior Written Notice |
| RSP | Resource Specialist Program |
| RS | Related Services |
| RtI ² | Response to Instruction and Intervention |
| SAI | Specialized Academic Instruction |
| SCIA | Special Circumstance Instructional Assistance |
| SDC | Special Day Class |
| SEA | State Educational Agency |
| SEEDS | Special Education Early Delivery System |
| SEIS | Special Education Information System |

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| SELPA | Special Education Local Plan Area |
| SESR | Special Education Self-Review |
| SH | Severe Handicap |
| SLD | Specific Learning Disability |
| SLI | Speech/Language Impairment |
| SLP | Speech/Language Pathologist |
| SLPA | Speech/Language Pathology Assistant |
| SNF | Skilled Nursing Facility |
| SOP | Summary of Performance |
| SPP | State Performance Plan |
| SSC | School Services of California |
| SSID | State Student Identifier |
| STAR | State Testing and Reporting |
| TBI | Traumatic Brain Injury |
| TEACCH | Treatment and Education of Autistic and Communication Handicapped Children |
| VI | Visual Impairment |
| WRC | Westside Regional Center |

GLOSSARY OF SPECIAL EDUCATION TERMINOLOGY

"A Child with a Disability": A student who has been properly evaluated in accordance with regulations who is found to have a disability which results in the need for special education and related services.

Academic Performance Index (API): The cornerstone of California's *Public Schools Accountability Act of 1999*; measures the academic performance and growth of schools on a variety of academic measures.

Accommodations in Statewide Assessment: Changes in format, response, setting, timing or scheduling that do not alter in any significant way what the test measures or the comparability of scores.

Adapted Physical Education (APE): This related service is for students with disabilities who require developmental or corrective instruction.

Adequate Yearly Progress (AYP): The measurement defined by the No Child Left Behind Act that allows the U.S. Department of Education to determine how every public school and school district in the country is performing academically according to results on standardized tests.

Administrative Law Judge (ALJ): Independent Administrative Law Judges who preside over special education due process hearings in California.

Administrative Unit (AU): The responsible local education agency where the SELPA office is located and where the state and federal funding is allocated.

Age of Majority: Rights are transferred from the parent to the student on the student's 18th birthday. This must be addressed by the IEP team prior to the student reaching age 18.

Alternate Curriculum: The alternate curriculum is used for students with moderate to severe disabilities to access the seven core areas of the California State Frameworks

American Reinvestment and Recovery Act (ARRA): The American Recovery and Reinvestment Act is an effort to jumpstart the economy, save and create millions of jobs.

Augmentative and Alternative Communication (AAC): Communication by means other than speech

Alternative Dispute Resolution (ADR): ADR is an informal process for resolving conflicts between districts and parents of students with disabilities.

American with Disabilities Act (ADA): This act prohibits discrimination of individuals based on disability. It requires public transportation services to be accessible to individuals with disabilities and prohibits discrimination in employment of qualified individuals with disabilities.

Annual Yearly Progress (AYP): Under NCLB, each State establishes a definition of "adequate yearly progress" (AYP) to use each year to determine the achievement of each school district and school. The new definition of AYP is diagnostic in nature, and intended to highlight where schools need improvement and should focus their resources.

Applied Behavioral Analysis (ABA): The design, implementation, and evaluation of systematic environmental modifications for the purpose of producing socially significant improvements in and understanding of human behavior based on the principles of behavior identified through the analysis of behavior.

Assistive Technology Device: Any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

Behavior Intervention Case Manager (BICM): A certificated person who has been trained in behavior analysis with an emphasis on positive behavior interventions.

Behavior Intervention Plan (BIP): Systematic implementation of procedures that result in lasting positive changes in a student's behavior.

Board Certified Behavioral Analyst (BCBA): BCBA's conduct descriptive and systematic behavioral assessments, including functional analyses, provide behavior analytic interpretations of the results, design and supervise interventions, develop and implement appropriate assessment and intervention methods for use in unfamiliar situations and for a range of cases, teach others to carry out ethical and effective behavior analytic interventions based on published research and designs, and deliver instruction in behavior analysis.

California Alternate Performance Based Assessment (CAPA): This is the alternate assessment for students who cannot participate on the CAT-6. This is for students with the most severe disabilities.

California Modified Assessment (CMA): The California Modified Assessment (CMA) is a grade-level assessment for students who have an individualized education program (IEP), are receiving grade-level instruction, and, even with interventions, will not achieve grade-level proficiency within the year covered by the student's IEP.

California Children Services (CCS): Agency which provides medically necessary physical and occupational therapy for students eligible under CCS criteria.

California English Language Development Test (CELDT): Students in kindergarten through grade twelve whose home language is not English are required by law to take an English skills test. In California, the test is called the CELDT. This test helps schools identify students who need to improve their skills in listening, speaking, reading, and writing in English. Schools also give the test each year to students who are still learning English.

California Longitudinal Pupil Achievement Data System (CALPADS): A longitudinal data system used to maintain individual-level data including student demographics, course data, discipline, assessments, staff assignments, and other data for state and federal reporting.

California Longitudinal Teacher Information Data Education System (CALTIDES): CALTIDES will be a new comprehensive system environment that primarily entails integrating existing databases to enable the retention of longitudinal educator data to meet federal No Child Left Behind (NCLB) and other state reporting requirements, to facilitate assignment monitoring, and to conduct high quality program evaluations.

California Special Education Management Information System (CASEMIS): This is an information and retrieval system in special education, developed by the CDE Special Education Division. The system provides the LOCAL EDUCATION AGENCY a statewide standard for maintaining a common core of special education data at the local level. The SELPA assists districts with the collection of this data.

Community Based Instruction (CBI): A model for delivery of instruction in which the IEP goals are met in a "natural" age-appropriate setting. For example, skills that may be developed by taking a trip to the grocery store include math, sequencing, travel, and social skills.

Community Advisory Committee (CAC): A committee composed of parents of students with disabilities appointed by each district board. The CAC serves in an advisory capacity to the SELPA Governing Board.

Compliance Complaint: Complaint filed with the California Department of Education by a person who feels that a special education law has been violated.

Designated Instructional Service (DIS): The federal term is related services. Transportation and such developmental, corrective and other supportive services as are required to assist the child with a disability to benefit from special education, and to include and not limited to: speech/language therapy and audio logical services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, counseling services, orientation and mobility services.

Desired Results Developmental Profile (DRDP): The DRDP is an assessment tool that is part of the Desired Results System. The DRDP helps the California Department of Education evaluate its programs for young children. The DRDP helps teachers document children's progress in areas such as learning, getting along with others, and being safe and healthy. Knowing how well children are progressing helps the California Department of Education understand how well its programs are doing. The DRDP has been used for a number of years with the California Department of Education's child development programs for children birth through 13 years old. Since spring 2007, the DRDP has also been used with 3, 4, and 5 year-old preschool children who have Individualized Education Programs (IEPs). Including preschool children with IEPs in the Desired Results System, assures that programs are working for all children.

Discrete Trial Training (DTT): Discrete Trial Training is a behavioral treatment intervention using the principles of Applied Behavior Analysis and derived from the work of Lovaas (1987). Discrete Trial Training takes a large or long term goal and breaks it down into small achievable steps that are presented in the format of a discrete trial. A particular trial may be practiced numerous times until the skill is mastered.

Due Process: Procedural safeguards to ensure the protection of the rights of the parent, guardian and the student under IDEA and related state and federal laws and regulations.

Dynamic Indicators of Basic Early Literacy (DIBELS): The DIBELS measures were specifically designed to assess 3 of the 5 Big Ideas of early literacy: Phonological Awareness, Alphabetic Principle, and Fluency with Connected Text.

Early Childhood Education (ECE): Early identification and special education and related services that are provided to children ages 0-5.

Elementary and Secondary Education Act (ESEA): This act was reauthorized in 2002 as NCLB. The intent is to ensure that all children have a fair, equal and significant opportunity to obtain a high quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state assessments.

Evaluation: Procedures used by qualified personnel to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Expedited Due Process Hearing: A hearing that results in a written decision being mailed to the parties within 45 days of the request for the hearing, without exceptions or extensions.

Extended School Year (ESY): Special education and related services that (a) Are provided to a child with a disability; (b) Beyond the normal school year; (c) In accordance with the child's IEP; and, (d) Meets the standard of the State Educational Agency.

Family Educational Rights and Privacy Act (FERPA): The Family Educational Rights and Privacy Act is a Federal law that protects the privacy of student education records.

Focused Monitoring and Technical Assistance (FMTA): The FMTA Consultants are assigned geographically. They are responsible for coordinating all monitoring and technical assistance activities for the districts and Special Education Local Plan Areas in their assigned counties, providing information, and facilitating access to technical assistance related to program monitoring and program implementation.

Functional Analysis Assessment (FAA): Is a comprehensive assessment of behavior done by a SELP A certified behavior intervention case manager (BICM) when an IEP team finds that instructional behavioral approaches specified in the student's IEP have been ineffective.

Harbor Regional Center (HRC): Regional centers are nonprofit private corporations that have offices throughout California to provide a local resource to help find and access the many services available to individuals with developmental disabilities and their families. HRC serves families in the Southern Los Angeles County.

Health Insurance Portability and Accountability Act (HIPAA): This is a medical privacy act that established national standards to protect the privacy of personal health information

High, Objective, Uniform State Standard of Evaluation (HOUSSE): An alternative method to assessing teacher subject matter competency is the High, Objective, Uniform State Standard of Evaluation (HOUSSE). HOUSSE allows current teachers to demonstrate subject matter competency and Highly Qualified Teacher (HQT) requirements through a combination of proven teaching experience, professional development, and knowledge in the subject acquired over time through working in the field.

Individualized with Disabilities Education Act (IDEA): Federal law that ensures that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet the unique needs and prepare them for employment and independent living. The Act was reauthorized in 2004.

Inclusion: Inclusion is educating each child, to the maximum extent appropriate, in the school and classroom he or she would otherwise attend. It involves bringing the support services to the child (rather than moving the child to the services).

Independent Educational Evaluation (IEE): An evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child.

Individualized Educational Program (IEP): Plan which describes the child's present level of educational performance, sets annual goals and instructional objectives, and describes

the special education program and related services needed to meet those goals and objectives if appropriate.

Individual Services Plan (ISP): The plan that is used for students who are enrolled in private schools by their parents that describes the specific special education and related services that the LEA will provide to the child.

Individual Family Service Plan (IFSP): Each eligible infant or toddler has an IFSP. The individual family service plan is in place of the IEP.

Individual Transition Plan (ITP): Plan that is included in the student's IEP beginning at age 16 or younger that addresses transition needs and interagency responsibilities or linkages that are needed for the student to successfully transition from school to adult life.

Individual with Exceptional Needs (IWEN): A student who is eligible for special education and related services under the Individual with Disabilities Education Act (IDEA).

Informed Consent: In accordance with 34 Code of Federal Regulations and Education Code: (1) Parent has been fully informed of all information relevant to the activity for which consent is sought, in his/her primary language or other mode of communication, (2) The parent understands and agrees in writing to the carrying out of the activity for which his /her consent is sought, and the consent describes the activity and lists the record (if any) which will be released and to whom, and (3) the parent understands that the granting of consent is voluntary on his/her part and may be revoked at any time.

Interim Alternative Educational Setting (IAES):

IAESs are intended to serve *short-term, transitional* purposes. With few exceptions, IAESs serve as settings in which students with disabilities are placed *pending* either a return to the student's current educational placement or a change in educational placement.

Least Restrictive Environment (LRE): In accordance with State and Federal law students with disabilities will be provided special education and related services in a setting which promotes interaction with the general school population, to a degree appropriate to the needs of both. The concept of LRE includes a variety of options designed and available to meet the diverse and changing needs of students. The least restrictive environment is determined by the IEP team on an individual student basis.

Low Incidence Disability: Severe disability with an expected incidence of less than one percent of the total statewide enrollment. The conditions are hearing impairment, vision impairment, severe orthopedic impairment, or any combination thereof.

Mainstreaming: Refers to the selective placement of students with disabilities in one or more general education classes and or extra-curricular activities.

Manifestation Determination: If a disciplinary action is taken that involves a removal of student with a disability that constitutes a change in placement then a review must be conducted of the relationship between the child's disability and the behavior subject to the action.

Maintenance of Effort (MOE): The general rule under MOE requirements is that districts must spend the same level of state and local funds (or local funds only) on special education as in the prior year, either in terms of total or per-pupil expenditures.

Medical Therapy Unit (MTU): Space provided by local educational agencies for the provision of medically necessary occupational and physical therapy provided by CCS therapists.

No Child Left Behind (NCLB): The No Child Left Behind Act, signed into law in 2002, has expanded the federal role in education and set requirements in place that affect every public school in America, including those in California. At the core of No Child Left Behind are measures designed to close achievement gaps between different groups of students.

Non-Public Agencies (NPA): A private, nonsectarian establishment certified by the CDE that provides contracted, related services to students with disabilities.

Non-Public Schools (NPS): A private, nonsectarian school certified by the CDE that enrolls students with disabilities pursuant to an IEP.

Notice of Insufficiency (NOI): If a due process hearing request notice is not does not meet all of the requirements as specified in IDEA, the district may file a notice of insufficiency with Office of Administrative Hearings (OAH) so that the issues of the complaint are more specific.

Occupational Therapy (OT): Services provided by a qualified occupational therapist that includes improving ability to perform tasks for independent functioning.

Office of Administrative Hearings (OAH): The Office of Administrative Hearings is the public agency that handles due process hearings in California.

Office of Civil Rights (OCR): Agency that ensures equal opportunity and accessibility for users of programs and services that receive federal funding.

Orientation and Mobility: Services provided by qualified personnel to students who are blind or have a visual impairment to enable those students to attain systematic orientation to and safe movement within their environments in school, home and community.

Office of Special Education Programs (OSEP): The Office of Special Education Programs (OSEP) is a component of the Office of Special Education and Rehabilitative Services (OSERS), which is one of the principal components of the U.S. Department of Education (ED). OSEP's mission and organization focus on the free appropriate public education of children and youth with disabilities from birth through age 21.

Picture Exchange Communication System (PECS): A form of alternative and augmentative communication (AAC) that uses pictures instead of words to help children communicate. PECS was designed especially for children with autism who have delays in speech and language development.

Prior Written Notice: A written notice that must be given to the parents of a child with a disability a reasonable time before an LEA (a) Proposes to initiate or change the identification, evaluation or educational placement of the child or a the provision of FAPE to the child; or (b) Refuses to initiate or change the identification, evaluation or educational placement of a child or the provision of FAPE to the child.

Procedural Safeguards: This is also known as Parent Rights. Procedural Safeguards must be given to the parents of child with a disability at a minimum (a) Upon initial referral for evaluation; (b) Upon each notification of an IEP meeting; (c) Upon reevaluation of a child; and (d) Upon receipt of a request for due process.

Procedural Safeguards and Referral Service (PSRS): This division of the California Department of Education, Special Education Division provides technical assistance information and resources for parents, school districts, advocates, agencies and others of procedural safeguards regarding students between ages 3 and 21 with disabilities and their educational rights.

Program Specialist (PS): A specialist who holds a valid special education credential and has advanced training and related experience in the education of students with disabilities.

Referral: Written request that a student be assessed to determine whether he/she has a disability that may require special education and/or related services to benefit from his/her educational program.

Related Services: See Designated Instructional Services.

Resource Specialist Program (RSP): Instruction and services provided by a resource specialist or special education specialist for students with disabilities who are assigned to general education classroom teachers for a majority of the school day.

Response to Intervention (RtI²): The response to instruction and invention (RtI²) model is also often called the Three-Tiered Model.

Section 504: Section 504 is a component of the Rehabilitation Act of 1973. It is a civil rights law that prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance. Any person is protected who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.

Search and Serve: Active and systematic involvement by the educational community to locate children who may need special education services beyond the regular curriculum and program options. This is also referred to as "child find".

Special Day Class (SDC): Intensive instruction for students with disabilities who require special education instruction for more than 50% of the school day.

Special Education: Specifically designed instruction, at no cost to parents, to meet the unique needs of a child with a disability.

Special Education Self-Review (SESR): Districts are required to go through a self review process every 4 years to determine areas of non-compliance. The reviews are structured and focused on educational benefit.

Specialized Academic Instruction (SAI): *Specialized Academic Instruction (SAI)* is defined as: "Adapting, as appropriate to the needs of the child with a disability the content, methodology, or delivery of instruction to ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children."

Summary of Performance (SOP): This is provided to students upon graduating with a diploma or aging out.

Supplementary Aids and Services: Aids, services and other supports that are provided in general education classes or other education-related settings to enable children with disabilities to be educated with typically developing peers to the maximum extent appropriate. These aids and services must be noted on the IEP.

Surrogate Parent: Individual who is assigned by the SELPA to act as a surrogate for the parents, when no parent can be identified and the district, after reasonable efforts, cannot discover the whereabouts of a parent, or the child is a ward of the state under the laws of that state. The surrogate may represent the child in all matters relating to the identification evaluation, and educational placement and the provision of a free appropriate public education to the child.

Special Education Local Plan Area (SELPA): Individual district, group of districts, or districts and County Office of Education which forms a consortium to ensure that a full continuum of special education services is available to all eligible students within its boundaries.

Specialized Physical Health Care Services: Health services prescribed by the child's licensed physician and/or surgeon which are necessary during the school day to enable the child to attend school and are written into the IEP. Designated providers are appropriately trained and supervised as defined in Ed code.

State Operated Programs (SOP): Special schools operated by the California Department of Education for the education of students with disabilities including individual assessment services and the development of individualized education programs for students who are deaf and/or blind.

State Performance Plan (SPP): The IDEA requires that each state submit a performance plan that evaluates the state's efforts to implement the requirements and purposes of Part B of IDEA and describes how the state will improve such implementation. This plan is called the Part B State Performance Plan.

State Testing and Reporting (STAR): In California this consists of the California Standards Test (CST) and the CAT -6. Students who are on a functional curriculum may take the California Alternate Performance Based Assessment (CAPA).

"Stay Put": During the pendency of a hearing a child with a disability must remain in his or her current educational placement unless the parents of the child agree otherwise.

Transition: Process of preparing a student to function in future environments and emphasizing movement from one educational program to another (e.g., infant program to preschool) or from school to work.

Transition Services: A coordinated set of activities for a student with a disability that (1) is designed with outcome-oriented process, that promotes movement from school to post-school activities. (2) Is based on the individual student's needs, taking into account the student's preferences, and interests.

Unilateral Placement: When a parent removes their child from a public educational placement into a private placement outside the IEP process.

Westside Regional Center (WRC): Regional centers are nonprofit private corporations that have offices throughout California to provide a local resource to help find and access the many services available to individuals with developmental disabilities and their families. HRC serves families in the Western Los Angeles County.