



PROCEDURAL MANUAL

Butte County Special Education Local Plan Area
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INTRODUCTION

Butte County Special Education Local Plan Area Vision Statement

The Butte County SELPA is dedicated to the belief that all students can learn and that students with special needs must be guaranteed equal opportunity to become contributing members of society. We believe in success for all students and support inclusion in all aspects of life.

Butte County Special Education Local Plan Area Mission Statement

The mission of the Butte County Special Education Local Plan Area (SELPA) is to empower teachers and families to empower students. Student self-determination and independence are strong areas of focus in our SELPA, as well as strengths-based and student-centered planning.

Butte County SELPA Special Education Core Beliefs

The Butte County SELPA further believes . . .

All staff must take *ownership* in meeting the needs of all students, including those with exceptional needs.

- Creativity and innovation within special education classroom environments should be supported and encouraged.
- Flexibility and tolerance is necessary in considering the educational needs of students with exceptional needs.

All Students:

- Deserve an educational environment that respects their safety and welfare.
- Possess unique strengths and abilities
- Benefit when schools focus on their social, emotional, physical and academic needs.
- Can and will learn best when adults plan for their success.

Students with Exceptional Needs:

- Must be integrated with their typical peers throughout their educational experience to the maximum extent possible.
- Benefit from high expectations and they must meet high standards for academic and non-academic skills.

PURPOSE OF THE SPECIAL EDUCATION PROCEDURAL MANUAL

The purpose of the Special Education Procedural Manual (“Manual”) is to assist school personnel to understand and practice procedures that are consistent with Federal, State, and District requirements. Consistent with our **vision, mission and core beliefs**, the Butte County SELPA is committed to ensure compliance with such policies and procedures. It is expected that District personnel will serve students with disabilities and their families in a manner consistent with this Manual.

The Manual is designed in a structured way to assist you in implementing special education policies, and we hope you find this a valuable reference for answering your questions. It includes information on timelines, programming, and procedures necessary to the completion of new, interim, partial annual, and triennial assessment Individualized Education Programs (IEP) following legal procedural and procedural best practices, as well as information that can improve your practice as a special educator. The Manual was significantly rewritten to accommodate new federal and state mandates.

We acknowledge the hard work of many others in the creation of this manual, In particular, the California Department of Education’s comprehensive guidelines for special education have formed the foundation for a good portion of the content.

More importantly, we acknowledge that legal issues and procedural rights are extremely important in the field of special education; however, they are only the framework, not the foundation of special education. The foundation of special education is our collective belief that all children regardless of the challenges presented by their disabilities, have strengths and the ability to learn and connect with others. As a member of the special education team, you are often the person who can make that connection.

We have all witnessed miracles, some small and some big. Our vision for special education is to provide a nurturing environment where students can perform to the best of their abilities, and even beyond. We hope that this Manual will make it easier for you to service children and families effectively. Building relationships with families is an essential part of the special education process. A good relationship with families will ensure you have more time and energy to get the important work of serving children with special needs. This is our collective commitment.

Note: This Manual is a living document and changes will be made as new law and regulations are enacted. The live copy is made available on the SELPA website at www.buttecountyselpa.org

Sincerely,



SELPA Director



Section A: General Information

- Overview of Special Education Local Plan Areas (SELPAs)
- Butte County SELPA Governance and Structure
- Section 504 of the Rehabilitation Act
- The Americans with Disabilities Act (ADA)
- Overview of the Community Advisory Committee (CAC)

OVERVIEW OF SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)

What is a SELPA?

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

Today, there are over 130 SELPAs in the State. The SELPA governance structures vary in form, including models for Multi-District SELPAs, Multi-District/County Office SELPAs, Single District SELPAs, Multi-District/Multi-County SELPAs, County SELPAs with Joint Powers Agreements, and Charter only SELPAs. Size and scope also varies across the state. Each SELPA has a Local Plan describing how it provides special education services. Specific components to be included in the Local Plan are delineated in the Education Code.

SELPAs are dedicated to the belief that all students can learn and that special needs students must be guaranteed equal opportunity to become contributing members of society. SELPAs facilitate high quality educational programs and services for special needs students and training for parents and educators. The SELPA collaborates with county agencies and school districts to develop and maintain healthy and enriching environments in which special needs students and families can live and succeed.

Legal Background

The Rehabilitation Act of 1973 (Public Law 93-112), amended in 1992, includes Section 504, which affirms the right of any student or adult who has a mental or physical impairment which inhibits a major life activity including learning; has a history of such an impairment; or is considered by a team of knowledgeable individuals to have such an impairment, from being discriminated against program or activity receiving federal financial assistance. This Act also requires that students be given a free appropriate public education in regular education classes, with necessary supplementary aids and services, if they are determined by a school team to be disabled under Section 504 or the Americans with Disabilities Act (ADA). Such eligibility may exist without concurrent eligibility for special education under the Individuals with Disabilities Education Act (IDEA).

The Rehabilitation Act was followed in 1975 by the passage of Public Law 94-142, the Education of Handicapped Act, which was renamed in 1990 to the Individuals with Disabilities Education Act (IDEA). This is the legislation that provides that all students who are eligible for special education must be provided with a free appropriate public education in the least restrictive environment.

The California Legislature implements the provisions of IDEA through the California Master Plan for Special Education. This plan was first implemented statewide in 1980 with the passage of Senate Bill 1870. IDEA in California is implemented through Special Education Local Plan Areas (SELPAs).

Some of the major areas covered by state and federal laws are the following:

- Child Find - Each public school system is responsible to find children with disabilities in its catchment area.
- Free Appropriate Public Education (FAPE) - Each public school system is responsible for ensuring that each child with disabilities is served appropriately, at no expense to the parent.
- Least Restrictive Environment (LRE) - Each child is assured of his/her right of education with non-disabled peers to the maximum extent appropriate to the needs of both.
- Due Process - The right of parent participation, and challenge, in all aspects of assessment, identification and placement is assured, which can involve mediation, administrative hearing procedures, and/or complaint procedure in case of disputes.
- Individualized Educational Planning (IEP) - The right of a child to an educational program designed to meet his/her individual needs and based on adequate assessment is assured. At age 14 to 16 this includes the development of an Individual Transition Plan (ITP) to provide for transition into the world of work.

The SELPA Administrator is responsible for assuring that:

- All individuals with disabilities receive a free appropriate public education in the least restrictive environment.
- All regular education resources are considered and, where appropriate, utilized on a local or regional basis to meet the needs of students with disabilities.
- A system exists at the regional level for identification, assessment and placement of disabled students.
- A viable system for public education is functioning in the community, with broad participation and interaction involving parents and other agencies serving children and young adults.
- An annual compliance monitoring system implemented, that continues to assure non-compliant items that have been identified through Self Reviews, Verification Reviews, Focused Monitoring or Complaints have and continue to be rectified.

Compliance and Implementation

Significant changes have occurred in services and programs provided for children with exceptional needs in the public schools of California. These changes have stemmed from new laws and regulations at both the state and national levels, as well as from the spirit of fairness, balance and equality that characterize the public school system in America. New interpretations of existing laws by the courts have further modified and expanded the services required for exceptional students.

Previously, children with disabilities were identified only if their educational needs were obvious. Then, they tended to be placed into programs designed to serve children with similar disabilities in special schools or located separately on comprehensive school sites. Such categorical programs were usually effective in providing specialized services for the populations they served; but in many cases, expectations for these groups were inappropriate in relation to the students' actual potential.

Gradually, the community and public agencies have become aware that children with disabilities can be educated with their non-disabled peers, guaranteeing equal opportunities for all children...including children with disabilities.

This required the sharing of program resources, including transportation, through regional cooperation among public and non-public schools and non-educational agencies.

In the early 1970s, a simultaneous movement across the country resulted in the passage of important federal and state laws. The federal Public Laws were PL 93-112 and PL 94-142. In 1987, PL 99-457 was passed which expanded services to preschool children. In response to these laws, legislation was passed in California, which provides the legal foundation for a comprehensive plan in special education and requires local districts and agencies to establish SELPAs to address the needs of all children with disabilities.

These laws and regulations promoted changes in procedures leading to such things as the following:

- Accountability
- Annual Reviews of Progress
- California Special Education Management Information System (CASEMIS) Reporting, now known as the California Longitudinal Pupil Achievement Data System (CALPADS)
- Career Training
- Community Involvement and Support
- Compliance Reviews
- Coordination of Resources Among Districts by Regions
- Desired Results Developmental Profile (DRDP) Assessment and Data Reporting
- Due Process Rights
- Educational Benefit
- Full Service to All Students with Disabilities
- Guaranteed Equality of Access
- Improved Self-Esteem for Children with Disabilities
- Increased Parent Participation
- Individualized Educational Programs (IEP)
- Less Restrictive Placements (LRE)
- Local Governance Systems
- Program Evaluation
- Program Quality Reviews
- Social Acceptance of Children with Disabilities

- Staff Development Programs
- State Performance Plan Indicator Data Collection
- Transition from School to Postsecondary Education and Employment

The SELPA and member local education agencies (LEAs) foster coordination between general and special education for prevention and early intervention of suspected disabilities. The SELPA also ensures appropriate education services for individuals with disabilities by working cooperatively with other public and private agencies to support a full complement of special education services for students. Each SELPA must have an Administrative Unit (also known as the Responsible Local Agency), which serves as the legal entity that receives funds. In some instances, the Administrative Unit is a school district and in other instances it is the county office.

Costs for SELPA operations and the Administrative Unit are provided by funding from the state, which may be augmented by local, federal and state funds. Each region determines the funds available for regionalized services and the responsibilities of the SELPA office. The SELPA policy-making body is designated in the Local Plan to make policy decisions, approve the SELPA budget and Allocation Plan, and direct SELPA operations. SELPA responsibilities include such things as:

- | | | |
|---|---|------------------------------|
| * Ensuring Program Availability for all Children with Disabilities | * Curriculum Development and Support | * Budget Planning and Review |
| * Governance committees, including Community Advisory Committee (CAC) | * Data Information Systems (CASEMIS and CALPADS) Reporting to the State | * Community Awareness |
| * Assistance with understanding compliance requirements | * Regionalized Services and Program Specialists | * Program Coordination |
| * Transition Planning | * Interagency Coordination | * Staff Development |
| * Fiscal Management | * Program Evaluation | |

The Goals of SELPAs

Even though there are many organizational structures for a SELPA, all SELPAs have the same basic goal: to deliver high quality special education programs and services to students with disabilities in the most effective manner practicable. SELPAs believe that all students can learn and that students with special needs must be guaranteed equal opportunity to become contributing members of society. SELPAs facilitate high quality educational programs and services for students with special needs and training for parents and educators. SELPAs collaborate with county agencies and LEAs to develop and maintain healthy and enriching environments in which

students with special needs can succeed.

Strategies employed to achieve these and the following goals include:

- Responding to specific areas of local, state and public concerns;
- Emphasizing the need for effective special education services to improve educational and life outcomes for students with disabilities;
- Organizing SELPA Administrators for support of common education goals; and
- Defining SELPA governance and organization with flexibility at the local level.

For Special Education Students

- Assuring that appropriate programs and services are provided to meet the needs of each child with disabilities throughout the state.
- Assuring that a full continuum of programs is available to each individual with disabilities served by each SELPA.
- Maintaining programs and services within the SELPA which will allow each individual with disabilities to achieve at a level commensurate with his or her ability.
- Assuring that each individual with disabilities is integrated within and has access to the district core curriculum and extracurricular activities as appropriate.
- Assuring the availability of due process rights for students and their parents served in each SELPA.

For Special Education Services

- Eliminating duplication of services within and between SELPAs.
- Improving the quality of programs through the use of on-going evaluations.
- Encouraging involvement by parents of each child with a disability in the IEP process.

For Staff

- Increasing awareness of parents of individuals with disabilities through a comprehensive program of parent education.
- Assuring that all certificated and classified staff members achieve professional growth through a comprehensive regional program of staff development.
- Maintaining opportunities for sharing technical resources and information among SELPAs.

SELPA-wide

- Fostering public support for special education through the maintenance of a strong position of child advocacy.
- Assuring that an effective management information system is available to monitor student data.
- Implementing cost-effective procedures and management systems to maximize the quantity and quality of services and programs for the benefit of students with disabilities.
- Maintaining lines of communication with parents, staff and Community Advisory Committee members.
- Maintaining line of communication with all publicly supported agencies providing services

to students with disabilities.

- Maintaining lines of communication with the community regarding special education programs and services.
- Maintaining quality regionalized services to support participating districts.

Special Education Programs

Under comprehensive special education programming, several beneficial goals have been achieved. It is the SELPA's responsibility to assure program availability for all students with disabilities in the school-age population regardless of the disability. It is incumbent upon the SELPA to see that a continuum of programs and services are available to meet the unique needs of each student with a disability, to assist in intra-SELPA and inter-SELPA placements, and to provide technical assistance and administrative support for the requirements of Federal and State laws.

The SELPA Administrator is responsible for assuring that:

- All individuals with disabilities receive a free appropriate public education in the least restrictive environment.
- All general education resources are considered and, where appropriate, utilized on a local or regional basis to meet the needs of students with disabilities.
- A system exists at the regional level for identification, assessment, and placement of students with disabilities and the implementation of programs to support them.
- A viable system for public education is functioning in the community, with broad participation and interaction involving parents and other agencies serving children and young adults.
- An annual compliance monitoring system is implemented, that continues to assure noncompliant items that have been identified have and continue to be rectified.

Program Specialists have a critical role in both SELPA and LEA special education operations. Their responsibilities include:

- Observing, consulting with and assisting special education staff;
- Planning programs, coordinating curricular resources, and evaluating effectiveness of programs for students with disabilities;
- Providing or participating in staff development, program development, and innovation of special methods and approaches; and
- Facilitating meetings to assure pupils have full educational opportunities.

The SELPA responsibility is met through a network of cooperative agreements among LEAs and agencies. The SELPA Office coordinates this network and provides a focal point for the student and/or family seeking information and services. This function is one of the most complex, but truly beneficial, processes of the entire special education delivery system.

Butte County SELPA Governance and Structure

The governing body of the SELPA is the Butte County SELPA Governing Board. [EC 56205 (a)(12) (A)]. The SELPA Governing Board is comprised of the superintendent or designee (proxy) from each of the following LEAs:

- ❖ Bangor Union Elementary School District
- ❖ Biggs Unified School District
- ❖ Butte County Office of Education
- ❖ Chico Unified School District
- ❖ Durham Unified School District
- ❖ Golden Feather Union Elementary School District
- ❖ Gridley Unified School District
- ❖ Manzanita Elementary School District
- ❖ Oroville City Elementary School District
- ❖ Oroville Union High School District
- ❖ Palermo Union Elementary School District
- ❖ Paradise Unified School District
- ❖ Pioneer Union Elementary School District
- ❖ Thermalito Union Elementary School District

SELPA Governing Board meetings are public meetings and, therefore, all Superintendents may attend. Only Superintendents or their designated representatives (proxy), however, are considered voting members of the Governing Board. The SELPA Governing Board meets on a regular basis according to Brown Act requirements.

The chairperson for the SELPA Governing Board is elected according to the voting procedures described herein at the last meeting of the school year. The term of office shall be one year commencing on July 1 of the year elected. The chairperson may be re-elected for additional terms.

The chairperson develops a schedule of meetings and convenes and presides over each meeting. If the chairperson is unable to attend a meeting, she/he designates another member of the governing board to chair the meeting. When necessary, the chairperson may call for special meetings or cancel regular meetings. The Chairperson collaborates with the SELPA Director in the development of meeting agendas.

Responsibilities of the SELPA Governing Board

The SELPA Governing Board members, under the direction of their respective elected Governing Boards, act to establish operational procedures and make decisions on any matters regarding the development, implementation, administration and operation of special education programs in accordance with the intent of the Local Plan. The SELPA Governing Board performs the following functions:

- Review and approve needed modification of this agreement on behalf of all districts in the SELPA and adopt amendments to the permanent portion of the Local Plan on an “interim basis”, not to exceed one year. Amendments approved in this manner shall become permanent upon subsequent approval by LEA Governing Boards during the annual service and budget plan process and upon subsequent approval by the State Board of Education.
- Adopt SELPA policies and procedures on behalf of their respective LEA Governing Boards to ensure compliance with the Local Plan and state and federal laws and regulations.
- Assure equal access to programs and services for all individuals with exceptional needs within the SELPA regardless of their district of residence.
- Approve the annual services plan and annual budget plan.
- Adopt policies for the distribution of federal, state and local funds received for special education programs.
- Adopt agreements including, but not limited to, interagency agreements with Behavioral Health, California Children’s Services, Far Northern Regional Center and other public agencies that provide services to students with exceptional needs.
- Establish and promote the Community Advisory Committee. Encourage parental involvement through members of the CAC and consider requests and recommendations from the CAC and other parent groups.
- Provide assistance in the selection, direction, discipline and evaluation of the SELPA Director.

Today, as never before, parents, students and staff work together to make certain that the appropriate services are provided on an individualized basis for every child with a disability. The services are provided through the SELPAs throughout California as they are here in the Butte County SELPA. The Local Plan developed and maintained in each community by the people who live there is the basis of these improvements and the foundation of services.

Source: Reprinted from the California Department of Education website:

<http://www.cde.ca.gov/sp/se/as/caselpas.asp>

SECTION 504 – REHABILITATION ACT OF 1973

Purpose

The purpose of this guideline is to provide information regarding students who may meet the eligibility criteria under Section 504 of the Rehabilitation Act of 1973.

Background

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a Federal civil rights statute that prohibits discrimination/harassment on the basis of a disability in any program or activity receiving Federal financial assistance.

A student with a disability under Section 504 means any student who:

- Has a mental or physical disability, which substantially limits one or more of the student's major life activities; (Note: Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. A major life activity is substantially limited when the student is unable to perform an activity that an average student is able to perform.)
- Has a record of such a disability; or
- Is regarded as having such a disability.

Section 504 sets forth evaluation procedures to determine eligibility, to develop an accommodations plan, and to provide procedural protections. It also protects individuals with disabilities from harassment. Harassment is unwelcome physical, verbal/non-verbal, or visual conduct that is severe or pervasive, that unreasonably disrupts an individual's educational or work environment, or that creates a hostile educational or work environment.

The Office of Civil Rights (OCR) and the U.S Department of Education enforce Section 504. Compliance with Section 504 is the responsibility of all school personnel and the operational responsibility of the general education program.

Butte County SELPA

The Butte County SELPA is committed to providing a working and learning environment that is free of discrimination and/or harassment. The District affirms that no qualified student with a disability shall, on the basis of that disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination/ harassment under any District program or activity. Disability-based harassment is a form of discrimination under both Federal and State law that may result in a denial of Free Appropriate Public Education (FAPE) to the student or the denial of an equal opportunity to an education.

As printed on the Parent/Guardian Procedural Safeguards Under Section 504 of the Rehabilitation Act of 1973, "Under Section 504 of the Rehabilitation Act of 1973, students with disabilities have the right to receive free appropriate public education, which includes the right

to be educated with students without disabilities to the maximum extent appropriate. Furthermore students with disabilities have the right to take part in, and receive benefits from, public education programs without discrimination or harassment based on those disabilities.”

Section 504 Procedures and Resources

Procedures and forms for implementing Section 504 in schools can be found in each individual LEA through either the Student Services Department or the Superintendent’s Office. Standard forms for a 504 Procedural Resource Guide include:

- Protocol for Convening a Section 504 Committee Meeting
- Section 504 Forms
 - Health Evaluation Referral
 - Parent Consent to Release of Medical Information
 - Health Evaluation Report
 - Section 504 Referral Form
 - Parent/Guardian Notification of Section 504 Evaluation
 - Parent/Guardian Procedural Safeguards Under Section 504 of the Rehabilitation Act of 1973
 - Response to Request for Section 504 Evaluation
 - Section 504 Teacher Observation Form
 - Section 504 Evaluation Documentation
 - Section 504 Plan
 - Section 504 Behavior Support Plan (Addendum Page to be used as applicable)
 - Section 504 Committee Decision
 - Section 504 Manifestation Determination Meeting
 - Section 504 Plan Distribution Notice
 - Section 504 Complaint Form

THE AMERICANS WITH DISABILITIES ACT (ADA)

The Law

The following are excerpts (in part) from the United States Department of Justice, Civil Rights Division at the website: www.ADA.gov.

“The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, by President George H.W. Bush. The ADA is one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life -- to enjoy employment opportunities, to purchase goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin – and Section 504 of the Rehabilitation Act of 1973 -- the ADA is an "equal opportunity" law for people with disabilities.”

“The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services...”

Purpose

The purpose of this section is to provide the Individualized Education Program (IEP) teams with information regarding the ADA.

The ADA requires that public agencies, including school districts, conduct a self-evaluation of their policies and procedures to examine whether existing practices discriminate against individuals with disabilities and to determine the necessary steps to correct the discriminatory policies and procedures identified.

Please contact the Butte County SELPA for further information on The American with Disabilities Act.

OVERVIEW OF COMMUNITY ADVISORY COMMITTEE (CAC)

Purpose

Parents, school personnel, and community members learning and working together produce healthy, valuable home-school partnerships. Effective school systems must devote energy and resources to informing and educating parents and community members about how to support and contribute to the efforts of their schools. The Community Advisory Committee (CAC) is designed in legislative spirit and intent to establish a local forum for active parent involvement.

The Law

Listed below are excerpts from pertinent California Education Code Sections, Part 30.

The CAC membership, appointment, and responsibilities are identified as follows:

Section 56191. The members of the community advisory committee shall be appointed by, and responsible to, the governing board of each participating district or county office, or any combination thereof participating in the local plan. Appointment shall be in accordance with a locally determined selection procedure that is described in the local plan. 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 at least two years and are annually staggered to ensure that no more than one half of the membership serves the first year of the term in any one year.

Composition of the CAC is described as follows:

Section 56192. The community advisory committee shall be composed of parents of individuals with exceptional needs enrolled in public or private schools, parents of other pupils enrolled in school, pupils and adults with disabilities, 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 majority of CAC members need to be parents as follows:

Section 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.

Advisory authorities of the CAC are outlined as follows:

Section 56194. The community advisory committee shall have the authority and fulfill the responsibilities that are defined for it in the local plan. The responsibilities shall include, but need not be limited to, all the following:

(a) Advising the policy and administrative entity of the special education local plan area regarding the development, amendment, and review of the local plan. The entity shall review and consider comments from the community advisory committee.

- (b) Recommending annual priorities to be addressed by the plan.
- (c) Assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan.
- (d) Encouraging community involvement in the development and review of the local plan.
- (e) Supporting activities on behalf of individuals with exceptional needs.
- (f) Assisting in parent awareness of the importance of regular school attendance.

Importance of the Community Advisory Committee (CAC)

Community Advisory Committees are vital components of effective special education programs in California. As outlined above, CACs have specific roles and responsibilities. Across California, many CACs are active, creative bodies that assist in advising local school districts, the Board of Education and Special Education administration about the Special Education Local Plan, annual priorities, parent education, and other special education related activities. Every Special Education Local Plan Area (SELPA) is required to establish a CAC. A SELPA is a consortium that is formed to ensure that the full continuum of special education services is available to all eligible students within its boundaries. It is comprised of an individual district, a group of districts, or districts and a county office(s) of education. The CACs provide an important connection between the community and the SELPA.

Again, as outlined earlier, parents comprise a majority of the CAC membership and the majority of these parents are parents of children with exceptional needs. Other members may include special education teachers, general education teachers, other school personnel, other parents, representatives from related public and private agencies, and school administrators. The CAC members are initially selected by their peers or nominated through their district. Candidates are then approved by their local Board of Education. The general education population should also be represented on the CAC.

The CAC members should represent not only parents concerned with the quality of Special Education but the entire special education community. As such, the CAC must act responsibly to ensure fair representation and thorough evaluation of the issues and interests handled in the attainment of its goals. The CAC responsibilities include advising the policy and administrative entity of the SELPA regarding the development, amendment, and review of the Special Education Local Plan. The Local Plan describes the local policies, procedures and programs that are consistent with state laws, regulations and policies for special education.

*Please contact the Butte County SELPA for a list, location, and times of the upcoming CAC meetings
OR
Consult our website at: www.buttecountyselpa.org*

Section B: Coordinated System for Referrals

- **Coordinated System for Referrals**
 - Child Find
 - Search and Serve Procedures
 - Notification Procedures for Special Education Information and Related Services
 - Identifying and Serving Students Enrolling in the School
 - Referring Students for a Special Education Assessment
 - Denying a Request for a Special Education Assessment
- **Student Success Team (SST)**
 - SST Process
 - SST Procedural Guide Information
 - Multi-Tiered System of Support Policy
 - Intervention Mapping

COORDINATED SYSTEM FOR REFERRALS

A. CHILD FIND

Each special education local plan area submitting a local plan to the Superintendent under this part shall ensure that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing “child find and referral” (CA Education Code Section [§] 56205(a)(3)).

Having a coordinated system of identification and referral provides for meeting the legal requirements of each local educational agency (LEA) to actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education (CA Education Code § 56300).

Child find activities are the responsibility of each district and occur prior to a referral for special education services. Under both federal and state statutes and regulations, school districts are required to locate, identify, and assess all children with disabilities who reside within the district. This requirement is commonly known as “child find” mandate applies to all children who reside within a State, including children who attend private schools and public schools, highly mobile children, migrant children, homeless children, and children who are wards of the state. (20 United States Code [U.S.C.] § 1412(a)(3)).

This includes all children who are suspected of having a disability including children who receive passing grades and are “advancing from grade to grade.” (34 Code of Federal Regulations [C.F.R.] § 300.111(c)) California specifically, obligates a district to actively and systematically to seeks out “all individuals with exceptional needs.” (Education Code § 56300 et. seq.)

Examples of child-find activities include:

- Media announcements regarding availability of special education services, as well as feature articles and stories regarding special education programs and opportunities;
- Development of Interagency Agreements that clearly define child find responsibilities of participating agencies (e.g., Butte County Behavioral Health, Head Start, and California Children's Services);
- Annual orientation/review for general education staff, provided by special education staff, regarding the referral procedures for special education, the eligibility criteria, and the continuum of special education programs and services available;
- Disability/Ability Awareness activities provided to both general education staff and students that include simulation activities, speakers, literature review, and instructional videos; and
- Information regarding the referral process for special education included in the annual notice of procedural safeguards.

B. SEARCH AND SERVE PROCEDURES

School Responsibilities

All schools are required to have procedures in place for identifying children who have or are suspected of having a disability and needing special education and related services. These procedures are commonly referred to as “search and serve” or “child find.”

The school’s responsibilities for search and serve apply to the families and students attending and enrolling in the school. There are three (3) search and serve responsibilities that each school must implement:

1. Students with disabilities, requiring special services, enrolling in the school are identified and promptly provided the appropriate services.
2. There is a process in place, understood by all staff members, for referring students who may require special services.
3. There is coordination with school site procedures, including referrals from the school site student intervention teams (e.g. Student Success Teams, etc.). (*CA Education Code* §§ 56300, 56301, 52040; C.F.R. § 300.451)

Note: 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. (*CA Education Code* § 56303)

C. NOTIFICATION PROCEDURES FOR SPECIAL EDUCATION INFORMATION AND RELATED SERVICES

Federal and State policy requires the District to annually notify all students and their parents about the availability of and information on special education and related services.

In addition, the following form must be maintained in the school office and made available to parents and staff upon request:

Parents’ Rights and Procedural Safeguards

District staff should be prepared to assist parents in completing forms and answering questions they may have.

Definition of Parent

The definition of “Parent,” pursuant to *CA Education Code* § 56028, reads:

- (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."

D. IDENTIFYING AND SERVING STUDENTS ENROLLING IN SCHOOL

All schools are responsible for having procedures in place to identify and promptly serve students who require or may need special services when they enroll in the school. The mechanism for implementing the procedures in the District's Student Enrollment Form should be completed by parents at the time they are enrolling their child. The following four questions should be asked:

1. Did the student receive special education services at his/her previous school?
2. Did the student have an Individualized Education Program (IEP) at his/her previous school?
3. Did the student have a Section 504 Plan at his/her previous school?
4. Does the student have difficulties that interfere with his/her ability to go to school or learn?

It is important that office personnel and administrator/designees familiarize themselves with the form and their duties to ensure that students who require special services are identified and promptly provided appropriate school programs and services. In so doing be sure to:

- Print out the student's active IEP from the IEP system when the student has an IEP from a previous school. Make every effort to obtain a copy of the student's IEP from the parent(s) or the previous school district if the student has an IEP from another school district.
- Review the IEP and provide the student the programs and services specified. Note: If the current IEP is out of date or no longer appropriate, continue implementation, but hold an IEP meeting within thirty days.
- If the student enrolled with an IEP from another school district, review the IEP and provide the student the programs and services specified. Hold an IEP review meeting within thirty days.
- If available, implement a student's existing 504 plan, or hold a meeting to develop a 504 plan.
- Take the specified actions when the parents have indicated that the student has difficulties that interfere with his/her ability to go to school or learn.
- Enter all appropriate information into IEP system for students who have an existing IEP.

E. REFERRING STUDENTS FOR A SPECIAL EDUCATION ASSESSMENT

Any person who believes that a student has or may have a disability and requires special education and related services may make a formal request in writing for a special education assessment.

Note: If a parent refers a child, birth to age three, or a child age three or four, who is not enrolled in a District preschool program, call, or have the parent call, the. If the request for a special education assessment is received from a parent whose child has been placed by the parent in a private school, follow the SELPA's procedures for serving students with disabilities placed by their parents at private schools.

Once a written request for a special education assessment has been received, the District has 15 days to respond to the request. It is recommended that the school hold a Student Success Team (SST) meeting within the **15 days** to address the parent concerns.

The SST, including administrator or designee, may discuss with the requestor accommodations or modifications that can be made in the general education program to assist the student's progress in the general education curriculum. A SST meeting, involving the requestor, can be utilized to design the accommodations or modifications. The requestor may agree to postpone

his/her request for a special education assessment until the accommodations or modifications have been implemented and the results evaluated.

Note: The team must end the meeting with either, (1) a proposed Assessment Plan and a Prior Written Notice (PWN) explaining why the District proposes to initiate the assessment process for special education identification, or (2) a PWN with the reason why the request for assessment is being refused. This must occur within 15 days from the day that the formal request was received..

School site administrators or designees should take the following actions to ensure that requests for a special education assessment are handled properly:

- A Special Education Assessment Plan must be developed and provided to the parent within 15 calendar days of receipt of the written request.
- When appropriate, discuss with the parent accommodations or modifications that can be made to the general education program (see above) and whether they want to delay the assessment until the modifications have been implemented and evaluated. If a parent agrees to postpone the assessment, assist them in putting their decision in writing. Be sure it is signed and dated.

Note: If the parent/guardian does not agree, the Assessment Plan and a PWN must still be developed and provided to the parent within 15 calendar days.

- If a request for a special education assessment is made by a staff member, the school site administrator or designee must do the following: have the student go through the SST process to provide in order to provide accommodations or modifications to help the student.

However, if some accommodations or modifications have been attempted, discuss if warranted, others that might be implemented. If the staff member still wants to request a special education assessment for the student, assist them in completing the request in writing.

- Inform the parent/guardian that a request for a special education assessment has been made and that they will receive a Special Education Assessment Plan for their review and approval.
- Ensure that the assessment plan is completed and provided to the parent/guardian within 15 calendar days of receipt of the written request.

F. DENYING A REQUEST FOR A SPECIAL EDUCATION ASSESSMENT

The District has the right to refuse a request for a special education assessment if it does not believe that the student may have a disability requiring special education and related services. This right should only be exercised only when there is evidence that the student is receiving

passing grades, progressing from grade to grade, or that the student's instructional difficulties are the results of factors other than a suspected disability.

Parents have the right to a due process hearing to challenge the refusal. At the hearing the District will have to provide evidence to defend its decision. Thus, a decision to deny a request for a special education assessment should only be made when the school site administrator or designee has documented evidence to support their decision.

Evidence should be based on a review of the following:

- Student records, academic history;
- Prior assessments including curriculum-based assessments, standardized tests, and alternative measures and procedures;
- Progress in current program;
- Progress in meeting content standards, including literacy and mathematics;
- Results of State and District assessments;
- Results of proficiency examinations;
- Results of portfolio assessments and student work samples;
- Types and results of academic intervention provided;
- Teacher information and concerns;
- Parent information and concerns;
- Results of situational observations.

Denial of Request for Special Education Assessment

If it is decided to deny a request for a special education assessment, the following steps must be taken:

1. Notify the parents in writing of the decision.
2. The letter must include the following:
 - A description of the decision made by the school;
 - A description of the evaluation procedure, test record, or report used as a basis for the decision;
 - An explanation of why the decision was made;
 - A description of any other options considered and the reason those options were rejected;
 - A description of any other factors relevant to the decision;
 - A statement that parents of a child with a suspected or confirmed disability are protected by procedural safeguards
3. Attach a copy of the *Parents' Rights and Procedural Safeguards* to the prior written notice.

4. Be sure that the letter is provided to the parent/guardian within 15 days of receipt of the request for a special education assessment.

Timelines

The timeline noted above must be followed. A Timeline Chart can be used to calculate from the referral date to when to complete the Assessment Plan and/or Prior Written Notice (15 days) and consent for assessment to IEP date (60 days). This chart does not take into consideration suspension of timelines for dates when schools are closed or students are not in attendance for more than five (5) days or the extra days allowed for obtaining parental consent.

The referral through assessment process is not completed until the IEP team meeting is held, the student is identified as eligible or ineligible for special education services, and the appropriate IEP pages written.

STUDENT SUCCESS TEAM (SST) PROCESSES

Background Information

Pursuant to California Education Code Section 56303,

“A pupil shall be referred for special educational instruction and services *only after* the resources of the regular education program have been considered and, where appropriate, utilized.”
[emphasis added]

The Student Success Team (SST) is a school site team, which includes the referred student and parent. This team:

- ❖ Is a function of general education;
- ❖ Uses a systematic problem solving approach to assist students who are not progressing at satisfactory rate;
- ❖ Clarifies problems and concerns;
- ❖ Develops an action plan that may include interventions, strategies, accommodations and modifications; and,
- ❖ Provides a system of accountability.

A student may be referred to the SST for:

- ❖ Lack of academic progress;
- ❖ Increasing behavioral concerns;
- ❖ Consideration for retention;
- ❖ Attendance/truancy issues; and,
- ❖ Parent concerns, which do not appear to be addressed.

Referral Process

Typically, all school-age children, upon request from parents or staff for consideration of special education, shall be referred to the SST at their school site. The SST will review the student's strengths, needs, prior interventions and strategies. The SST must be seen as an intervention process, not a special education referral process.

Referrals for special education should not be made from the initial SST meeting. It has been standard practice to require eight to ten (8-10) weeks of documented interventions provided in general education classes prior to special education assessment. The SST provides the school documentation of such interventions and should meet at least two to three (2-3) times prior to considering special education assessment. If the SST finds that all general education resources and interventions of the general education program have been considered and, where appropriate, implemented without adequate student progress occurring, the SST shall refer the student for assessment for special education eligibility.

What if a Parent Wants to Bypass the SST Process?

If a parent asks for an assessment without first going through the SST, please contact your school site administrator and the District Special Education Office if it appears that assessment for special education eligibility is not an appropriate measure at this time. If the parent verbally requests an assessment, pursuant to Section 3021 of California Code of Regulations (CCR), "staff of the school district . . . shall offer assistance to the individual in making a request in writing, and shall assist the individual if the individual requests such assistance." If the school site believes that more data, interventions, etc. are needed, then the district is required to write a "prior written notice" (PWN) and decline the request for assessment pursuant to Education Code Section 56500.4, as reprinted below.

56500.4. (a) Pursuant to Section 1415(b)(3) and (4) and (c)(1) of Title 20 of the United States Code, and in accordance with Section 300.503 of Title 34 of the Code of Federal Regulations, prior written notice shall be given by the public agency to the parents or guardians of an individual with exceptional needs, or to the parents or guardians of a child upon initial referral for assessment, and a reasonable time before the public agency proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child. In accordance with Sections 300.304 and 300.503 of Title 34 of the Code of Federal Regulations, the public agency shall provide a description of any assessment procedures the agency proposes to conduct.

(b) The notice required under subdivision (a) shall, in accordance with Section 300.503(b) of Title 34 of the Code of Federal Regulations, include all of the following:

- (1) A description of the action proposed or refused by the public agency.
- (2) An explanation of why the public agency proposes or refuses to take the action.
- (3) A description of each assessment procedure, assessment, record, or report the public agency used as a basis for the proposed or refused action.

- (4) A statement that the parents of an individual with exceptional needs have protection under the procedural safeguards of this part and, if this notice is not an initial referral for assessment, the means by which a copy of a description of the procedural safeguards can be obtained.
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part.
- (6) A description of other options that the individualized education program team considered and the reasons why those options were rejected.
- (7) A description of other factors that is relevant to the proposal or refusal of the agency.

STUDENT SUCCESS TEAM (SST) PROCEDURAL GUIDE

Components included in a typical SST PROCEDURAL GUIDE are listed below.

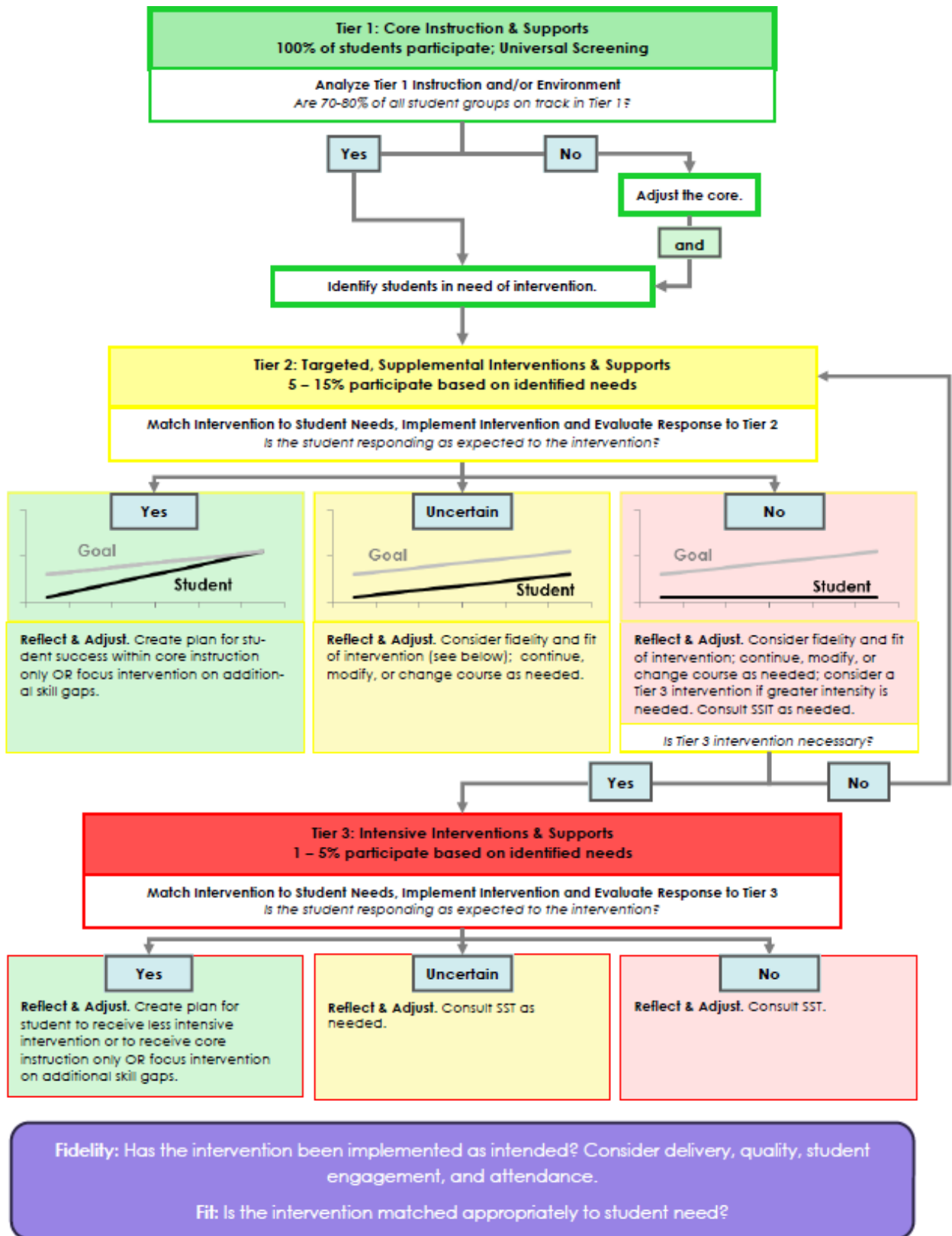
- Introduction
- SST Initial Evaluation Referral Checklist
- SST Member Roles
- SST Process
- Before the SST Meeting: To Do List for SST Lead/Meeting Facilitator and Teacher(s)
- Best Practices for Effective SST Meetings
- Sample SST Interventions
- Sample SST Meeting Agenda
- SST Meeting Check List
- SST Forms
 - SST Request Form (Teacher/School Staff Referral)
 - SST Meeting Summary

Sample SST Guides and accompanying forms can be found on the **Butte County SELPA Website** at www.buttecountyselpa.org on our Padlet links.

One excellent handbook for Student Study Teams is shared with encouragement from **San Joaquin SELPA**, at https://www.sjcoe.org/SELPA/PDF/SST_Handbook.pdf

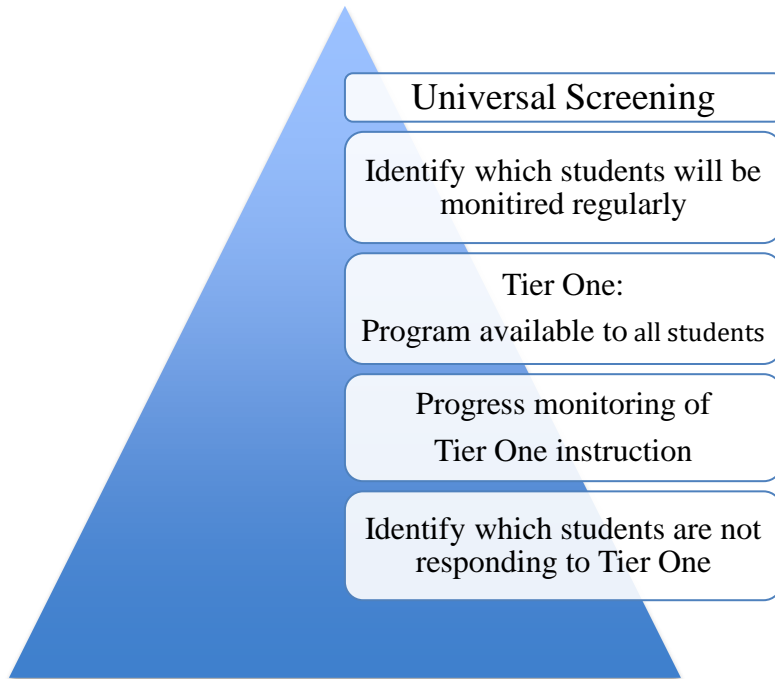
Provided on the next several pages is a flowchart for Tiered Interventions and Supports in an MTSS Model that will assist LEAs in meeting Education Code for intervention prior to referral for special education assessment.

FLOWCHART FOR TIERED INSTRUCTION AND SUPPORT



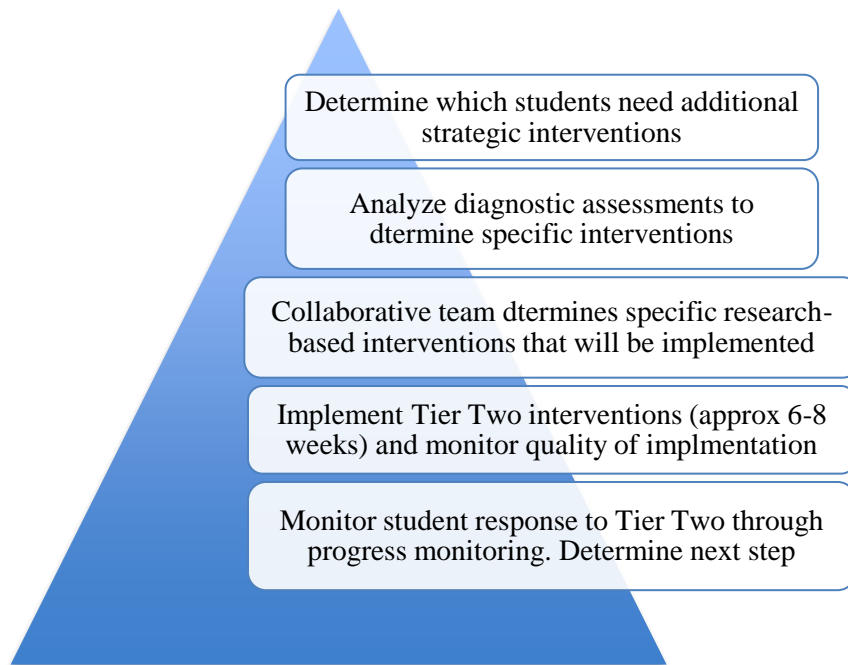
Madison Metropolitan School District Intervention Flow Chart

RESPONSE TO INTERVENTION (RtI) FLOW MAP



COLLABORATIVE TEAM MEETINGS

Focus on data analysis, planning, interventions, and problem-solving



MULTI-TIERED SYSTEM OF SUPPORT (MTSS) POLICY

The Butte County SELPA is dedicated to the belief that all students can learn, and that students with special needs shall be guaranteed an equal opportunity to become contributing members of society. Butte County SELPA believes in success for all students and supports inclusion in all aspects of life.

Multi-tiered System of Supports (MTSS), specifically, CA MTSS, is an equity-based inclusive framework that uses a strengths-based approach to assist schools in creating an optimal culture for learning for all students. The key components of MTSS framework include the effective use of data and evidence-based processes to connect students to the proper supports; transformational leadership in creating purpose and relational trust to engage staff and students; collaborative inquiry that involves staff in action research to improve teaching and learning; and a prevention-driven, tiered support system not only for academics, but also for behavior and social emotional needs.

The Every Student Succeeds Act (ESSA) provides greater flexibility to states in determining specific practices and service delivery models to improve school climate, increase school safety, and expand access to comprehensive learning supports. MTSS enables the integration of multiple school improvement efforts and represents an effective strategy to accomplish the following goals:

- Improve outcomes for all students, including high-performing students, English language learners, students receiving special education services, and those struggling with barriers to learning;
- Improve instruction and alignment of curricula across general and special education;
- Improve school climate and safety;
- Create safe and supportive learning environments free from bullying and harassment;
- Support students' mental and behavioral health; and
- Implement effective discipline policy and practice.

MTSS is a framework to help students graduate from high school ready for career, college, and life. It offers different levels of academic and non-academic services and supports based on individual student needs. MTSS incorporates elements of Response to Intervention and Instruction (RtI), Positive Behavior Instruction and Supports (PBIS), Universal Design for Learning (UDL) and other evidence-based methodologies that have a proven record of success in helping all students to better succeed. For a more complete description of MTSS, see the following link to the California Department of Education (CDE) description of MTSS components: <https://www.cde.ca.gov/ci/cr/ri/>

Butte County SELPA supports the vision of the CDE in transitioning to One Statewide System of Support, connecting resources and supports to all students in order to better meet the needs of the whole child and to support capacity of LEAs to meet Local Control priority areas. On this basis, the SELPA will play a part, in partnership with Approved: 10.17.18 Butte County Office of Education, in developing and maintaining supports for the development of MTSS within schools in Butte County. SELPA will partner with district members at times to collaboratively provide technical assistance and training on components of MTSS. Since implementation of MTSS is complex and often requires many years to complete, the SELPA is committed to supporting a multi-year approach to help facilitate the adoption of a MTSS framework.

It is important that the SELPA continue to encourage and support “best first instruction” at a universal level; monitor supplemental and intensive interventions to ensure efficacy and fidelity to

evidence-based interventions; and consider referral for special education services only after these have been utilized and documented as ineffective. SELPA recognizes that a Multi-Tiered System of Support, fully implemented with fidelity, can address most students' needs promptly, effectively and inclusively, without the need for assessment or a special education label. Pursuant to California Education Code Section 56303, "A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized." For a more detailed description of how MTSS for academics is currently determined in our LEAs, please refer to the Butte County SELPA Local Plan policy on Patterns of Strengths and Weaknesses at the following link:

https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/87003/PSW_Manual_DRAFT_5.24.17.pdf

Legal References:

Elementary and Secondary Education Act/ESSA (five occurrences)

Education Code § 56303

Section C: Evaluations

- **Special Education Assessment**
 - Assessment Procedures
 - Comprehensive Evaluation Report
 - Eligibility Criteria
 - Other Types of Assessment
- **State Statute**
- **Triennial Reevaluations**
 - Introduction
 - Determination of Need for Triennial Review Evaluations
 - State Statute Regarding Reassessment
- **Assessment for Specific Learning Disabilities (SLD) Eligibility**
 - Response to Intervention (RtI)
 - Multi-Tiered System of Supports
 - Pattern of Strengths and Weaknesses
- **Assessing African-American Students**
- **Guidelines for Independent Education Evaluation (IEE)**
- **Prohibition on Mandatory Medication**

SPECIAL EDUCATION ASSESSMENT

NOTE: On September 23, 2010 the House of Representatives unanimously approved a bill paving the way for the term —mental retardation to be replaced with —intellectual disability in areas of federal law. The legislation also known as Rosa’s Law has been applied to the language herein.

ASSESSMENT PROCEDURES

Initiation of the Special Education Assessment Process

All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, educational staff 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 a brief reason for the referral and 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 the time lines for completing the assessment plan or assessment (California Code of Regulations [CCR] Title 5, §3021).

A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized. (Education Code [EC] §56303)

What are the Procedures to Appropriately Identify the Referral Concern(s)?

To ensure that all areas related to the suspected disability are addressed, review students’ records, interview, and observe, instead of solely focusing on the learner through testing. The first step in the process is to use a combination of review records and interviewing of key individuals to produce a clear and concise referral question. The question should be more specific than, “The purpose of this assessment is to determine if the student is eligible for special education services.” An example of a more specific referral question is: “The purpose of this assessment is to determine areas of strengths and weaknesses related to literacy and to determine whether the student responds adequately to a research based literacy intervention. This information will be used to determine if the student is best served in general or special education or a combination of the programs.”

If the referral question is clear, then it will be fairly straightforward to judge whether a report is truly comprehensive. If the referral question is ambiguous and broad, then judging the degree to which all aspects of the concern have been addressed becomes significantly more difficult. It is also important to clearly understand the referral concern, before an assessment plan is created. This will entail using the appropriate processes with a specific focus on interviewing teachers and parents using either an unstructured or structured interview process designed to identify the primary problem and lead to intervention ideas.

For example, discussion with teachers or parents may suggest that the academic problem is accompanied by a concern about a student’s emotional status or behaviors that appear related to the academic area of concern. The information gathered as part of developing the referral question

should be included in the report in the background or assessment results section and addressed in the evaluation, even though the data was collected before the assessment plan was signed.

What Are the Procedures When a Parent Makes a Referral for Special Education Assessment?

If a parent makes an oral request for a special education assessment for their child, it is the responsibility of the SELPA/District to inform the parents this request must be in writing and assist the parents with writing the request if needed (Education Code [EC] §56029; CCR §3021). This request starts the assessment process and should follow the same procedure as listed above.

When the SELPA/District receives a written request for special education assessment from a parent, the LEA has 15 days to respond to the request with either a proposed assessment plan (see below for requirements) or a Prior Written Notice (see below) with the reason why the assessment is being denied (EC §56321, §56500.4).

What Other Assessment Guidelines Need To Be Considered During the Process?

1. A multidisciplinary team, including at least one teacher or specialist knowledgeable in the area of suspected disability, conducts assessments.
2. An assessment shall be administered by qualified personnel who are appropriately trained to administer and interpret test results. Qualified personnel should be competent in both oral and written skills in the student's primary language or mode of communication, as well as have knowledge and understanding of the student's cultural and ethnic background. If an interpreter must be used the assessment report must document this condition (Title 5, CCR §3023).
3. No single score or product of scores or test procedures shall be used as the sole criterion for the decision of the IEP Team as the student's eligibility for special education.
4. For pupils with suspected learning disabilities, a regular education teacher shall participate in the assessment, and at least one team member, other than the pupil's regular teacher, shall observe the pupil's academic performance in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age (CCR §3030 j (C 3-4), EC §56341 (7) (c)).
5. IQ test scores are not contained in files of African-American pupils. Please refer to the Guidelines on Assessing African American Students and purging IQ scores received from out-of-state LEAs or non-educational agencies (Guidelines for Assessing African-American Students).
6. Assessment results are documented and contain all required information (See Written Report Section).
7. Each individual is reassessed/reviewed for determination of needed evaluation data at least every three years to determine eligibility or more frequently when requested by parent or teacher (EC §56381(a)(2)).

8. Written consent by parent/guardian/adult student is necessary anytime an individual student is screened or assessed. If a group of students are being screened or assessed at the same time, then written consent is not required.
9. Written consent by parent/guardian/adult student is required prior to observing an individual student if the data collected due to suspicion of disability or disability-related need. If the observation is conducted solely to provide feedback to the teacher regarding service delivery, then written consent will not be needed.

What Are the Assessment Timelines?

All referrals for assessment must come through a Child Find and/or the problem solving team process. If a parent requests an assessment in writing, it is recommended that a meeting be held with the parent and problem solving team within 15 calendar days to ensure that *“all resources of the general education program have been considered and, where appropriate, utilized”* (EC §56303).

- If parent/guardian is unable to attend the meeting, the LEA must provide a written response to their request for evaluation within 15 days (EC §56043(a)).
- If an assessment is indicated, the parent/guardian shall be provided a copy of the Parents’ Rights and Procedural Safeguards, Prior Written Notice, and a proposed Assessment Plan.
- If an assessment is not indicated, the parent/guardian shall be provided a copy of the Parents’ Rights and Procedural Safeguards and Prior Written Notice.

All assessments must be completed and an Individualized Education Program (IEP) developed within 60 calendar days after receipt of the signed assessment plan (EC 56043(c)). **Vacations or off track days longer than 5 consecutive school days are not counted as part of the 60 calendar days.** The number of days prior to the off school time is added to the days starting upon the student’s return to total the 60 calendar days (EC §56043(f)(1)). The evaluation process is not completed until the IEP team meeting is held and the appropriate IEP pages written.

When a referral is received 10 days or less prior to the end of the regular school year, the days between the pupil’s regular school sessions or terms or days of school vacation in excess of five schooldays are not counted as part of the 60-days. However, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil’s regular school term as determined by the District school calendar. In the case of pupil school vacations, the 15-day time shall commence on the date that the pupil’s regular schooldays reconvene. (EC §Section 56321a)

When Do I Provide the Parent(s) with the Parents’ Rights and Procedural Safeguards?

The Parents’ Rights and Procedural Safeguards must be given to the parent/guardian at multiple times throughout the Individualized Education Program (IEP) process (EC §56301(d)(2)):

- Upon initial referral for assessment;
- Upon notice of an IEP meeting; and,
- Upon reassessment.

It is critical that someone on the team explains the content to the parent/guardian to ensure that he/she understands their rights and the processes involved.

When Do I Complete a Prior Written Notice?

Prior Written Notice shall be given by the SELPA/District to the parent(s) or guardian(s) of an individual with exceptional needs, or a child upon initial referral for assessment, whenever the SELPA/District proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (EC §56500.4)

For guidance on completing the Prior Written Notice form, please see the IEP Manual.

A compliant notice will be individualized for each student and must include the following components:

- A description of the action proposed or refused by the agency;
- An explanation of why the agency proposes or refuses to take action;
- A description of any other options that the agency considered and the reasons why those options were rejected;
- A description of each assessment procedure, test, record, or report the agency used as a basis for the proposed or refused action;
- A description of any other factors that are relevant to the agency's proposal or refusal; and,
- A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation; and, the means by which a copy of a description of the procedural safeguards can be obtained. (34 CFR §300.503)

A legal opinion pertaining to Prior Written Notice suggests a separate form be sent out after the IEP team has made a decision for the change/rejection on the following actions:

- Evaluation/Re-evaluation – intention of refusal (EC §56500.4);
- Educational Placement – (change of placement);
- Change of placement due to graduation;
- Exiting student from special education; and,

When the LEA is refusing to take an action requested by the parent in writing.

The notice must be:

- Written in language understandable to the parent/guardian;
- Provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian, unless it is clearly not feasible to do so;
- That the parent/guardian understand the content of the notice and this is documented; and,
- A copy of the Parents' Rights and Procedural Safeguards should be attached to the Prior Written Notice

When Is an Assessment Plan Developed?

An assessment plan must be developed before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction. An Assessment Plan must also be developed for all formal three-year reevaluations or any time an individualized assessment is being conducted. When the school site receives a written request for assessment from the parent/guardian, or school staff member has a question regarding eligibility or services, an assessment plan should be developed.

Who Should Participate in Developing the Assessment Plan?

Although only one person needs to complete the initial Assessment Plan form, it is ideally developed in a team-consultation based on current classroom assessment and observation by teachers and related service providers and other findings and recommendations from the school site's problem solving team (e.g. Student Success Team (SST), , School Based Intervention Team (SBIT)). The parent/guardian should be included in developing the Assessment Plan to ensure that their areas of concerns are addressed and they have the opportunity to share any information available from assessments completed by other agencies/professionals, such as independent assessments, which should be documented on the Assessment Plan. A member of the multidisciplinary team should explain the proposed Assessment Plan to the parent/guardian in the parent/guardian's native language to insure that "informed" consent is obtained.

What Should Be Included in the Assessment Plan?

The proposed assessment plan given to parents or guardian shall meet all the following requirements (EC §56321b):

- 1) Be in language easily understood by the general public.
- 2) Be provided in the primary language of the parent, guardian, or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible.
- 3) Explain the types of assessments to be conducted.
- 4) State that no individualized education program will result from the assessment without the consent of the parent.

Please see the "IEP Manual" section in this Procedural Handbook for specifics on how to complete the Assessment Plan.

Is Consent Required Prior to Starting the Assessment Process?

No initial assessment shall be conducted unless the written consent of the parent or guardian is obtained prior to the assessment. The parent or guardian shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of the consent. (EC §56321(c)(4))

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 of that test or assessment, consent is required of the parents of all the children. (EC §56321(e) and 34 Code of Federal Regulations [CFR] §300.300(3)(a))

What if a Parent Does Not Provide Consent for an Initial Assessment?

If the parent of the child does not provide consent for an initial assessment, or the parent fails to respond to a request to provide the consent, the local educational agency may, but is not required to, pursue the initial assessment utilizing the procedural safeguards procedures, including mediation and due process procedures. (EC §56501(a)(3), 56506(e) and 34 CFR §300.300(a))

The local educational agency does not violate its obligation for child find, evaluation and eligibility determination if it declines to pursue the assessment. (34 CFR §300.300(a)(3)(ii) and EC §56321(2)(3))

Who Provides Consent if the Student Is a Ward of the State?

If the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial to determine whether the child is a child with a disability if—

- (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
- (ii) The rights of the parents of the child have been terminated in accordance with State law; or
- (iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. (34 CFR §300.300(a)(2))
- (iv) The court may also appoint a Court Appointed Special Advocate (CASA).

In the cases when the courts have not appointed an individual or CASA, the District/SELPA will need to appoint a surrogate parent.

What if a Parent Does Not Provide Consent for a Triennial Assessment?

If the parent refuses to consent to the reassessment, the local educational agency may, but is not required to, pursue the reassessment by using the consent override procedures by showing the public agency has made reasonable efforts to obtain the informed consent from the parent for the reassessment to determine whether the child is a child with a disability. 34 CFR §300.300(c).

When Do I Need to Use Authorization for Use and/or Disclosure of Information?

Confidentiality means the restriction of access to verbal and written communications, including clinical, medical and educational records to appropriate parties. (EC §49076) "Pupil record" means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a LEA or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm or other means. "Pupil record" does not include informal notes related to a pupil compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person. (EC §49061(b)) "Access" means a personal inspection and review of a record or an accurate copy of a record, or receipt of an accurate copy of a record,

an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record. (EC § 49061(e)) The SELPA/District may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file (EC §49075(a)).

What Procedures Are Considered for Cultural Factors and Limited English Proficiency?

Students should not be identified as eligible for special education when the cause for their academic difficulties is Limited English Proficiency or other cultural factors. Federal laws indicate that a determination of primary home language must be made for all students.

Additionally if the primary home language is other than English, the student's proficiency in English (listening, speaking, reading, and writing) must be assessed by school personnel. Research (Cummins, 1979; Collier, 1987; Klesmer, 1994; Cummins, 1984) indicates that it takes approximately two years to acquire Basic Interpersonal Communication Skills (BICS) and between five and seven years to acquire the Cognitive Academic Language Proficiency (CALP) required to function effectively in content subjects. Failure to account for language development will lead to discriminatory outcomes in assessments, over-representation in referrals, and disproportionate placement in special education programs.

Students who are in the process of learning English may often display academic behaviors and skill sets that are misinterpreted as learning disabilities. It should not be assumed that English Learners who are not acquiring academic skills according to the age and grade expectations of their English-speaking peers are displaying evidence of any handicapping condition. Before referring for a special education assessment, an analysis of the student's background and progress in one of the California state adopted English Language Development (ELD) curriculum programs should be conducted. This analysis should analyze prior education history which includes the student's response to interventions, and comparison of the student's educational progress in the school's ELD curriculum with similar peers also in the ELD program.

The impact of cultural factors on student's academic performance represents a component of the exclusionary picture that should be considered. For immigrant students, the impact of acculturation should not be overlooked in examining effects on academic progress. Also, some students may exhibit low proficiency in Standard English Language (SEL), which may also negatively impact academic achievement.

Thus, multi-disciplinary evaluation teams in examining cultural and language factors as exclusionary need to carefully review (a) the student's prior educational history, (b) progress in the ELD curriculum, (c) SEL difficulties, and (d) acculturation factors as part of the process to determine if those factors are the primary reason for the students' academic difficulties. This analysis should provide the basis for any individual assessment that may be conducted. The assessment should be conducted, if feasible, by bilingual assessors fluent in the student's primary language (Education Code citation) and will weigh the relative impact of language acquisition, cultural factors and indicators of a SLD on student's academic progress, which includes their response to interventions.

What Procedures Are Considered for Environmental or Economic Disadvantage?

The evaluation team must also assess whether issues of environment or economic factors may be the primary source of a child's academic problems rather than a handicapping condition.

Indicators of economic status are found by reviewing the student's or school's receipt of federally subsidized meal program. Interviews with the family and developmental histories are also useful tools that provide further environmental information that may impact student achievement, such as illnesses, patterns of school attendance, availability of early intervention, etc. In addition, chronic health conditions sleep disorders, medications, or other significant areas of difficulty for a child should be considered. Whether these factors are impacting the student's academic skills should be documented in assessment reports, and may serve to rule out SLD.

What Instruments Should Be Used?

A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities) (34 CFR §300.304(b)(2)).

Assessments or measures are administered by trained and knowledgeable personnel in accordance to the instruction provided by the producer of the assessments to insure validity and reliability. Assessments or other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Assessment tools should be selected and administered to a child with impaired sensory, manual or speaking skills in a manner in which the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills (unless those skills are the factors that the test purports to measure). (34 CFR §300.304(c)) When standardized tests are considered to be invalid for the specific pupil an alternative assessment must be utilized and specified on the assessment plan. (CCR §3030(c)(4)(B) and §3030(j)(4)(B))

What Are Legal Requirements of Individualized Assessment for Suspected Disability?

An individual assessment of the pupil's educational needs shall include, but not limited to, all the following: (EC §56320)

- a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.
- b) Tests and other assessment materials are provided and administered in the pupil's primary language or other mode of communication, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible, have been validated for the specific purpose for which they are used, and are administered by trained personnel in conformance with the instructions provided by the producer of the tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.

- c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those, which are designed to provide a single general intelligence quotient.
- d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.
- e) No single procedure is used as the sole criterion for determining whether a pupil is an individual with exceptional needs and for determining an appropriate educational program for the pupil.
- f) The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history is obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided.
- g) 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.
- h) As part of an initial assessment, and if appropriate, as part of any reassessment, the group shall include members of the individualized education program team, and other qualified professionals, as appropriate. The group may conduct its review without a meeting.

COMPREHENSIVE EVALUATION REPORT

A comprehensive evaluation report provides the documentation that all legal and best practice aspects of an assessment have been completed, and should be viewed as a resource for teachers and other staff members as intervention options are considered. There is not one way to complete a comprehensive evaluation and the concept of a —comprehensive evaluation is somewhat of a subjective conclusion. That being said, there are a set of general principles promulgated in the Test Standards that apply to all types of individualized assessments and evaluation that should be followed for every case. In addition, most author(s) who write about psycho-educational evaluation practices suggest it is critical to use a conceptual model to help organize and present results.

What Are the Legal Requirements for the Written Comprehensive Evaluation 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 to, all the following: (EC §56327)

- Whether the pupil may need special education and related services;
- The basis for making the determination;
- The relevant behavior noted during the observation of the pupil in an appropriate setting;
- The relationship of that behavior to the pupil's academic and social functioning;

- The educationally relevant health and development, and medical findings, if any;
- For pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services;
- A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate; and,
- The need for specialized services, materials, and equipment for pupils with low incidence disabilities

A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent or guardian. (EC §56329 (a))

What Should a Comprehensive Evaluation Report Include?

The evaluation report must also include information about:

- The student's demographic data;
- The reason for the referral;
- Documented interventions;
- Results of tests;
- Statements regarding validity of the assessments and whether test results are valid; and,
- Consideration of independent assessments.

What Components Should Be Included in the Comprehensive Evaluation Report?

- The reason for the referral to special education, including the effects of the modifications attempted in the regular education setting and any previous assessment results.
- The child's developmental and health history, social and family dynamics including any socio-cultural factors and school history.
- Document that the assessment was administered in student's primary language (EC 56320)
- Include the child's performance in school and the classroom, adaptive behavior functioning, academic achievement levels, cognitive abilities, psychological processing areas, emotional behavioral functioning, language/communication skills and care/vocational (as appropriate).
- Documentation from the observation of the child in their natural environment that are under 5 years old and in the classroom for school age, as well as observation of the child during the assessment process.
- A statement regarding the validity of the assessment.
- The effects of the environmental, cultural, or economic disadvantage status of the child in relation to the test results.
- A summary and conclusion of the test results along with recommendations regarding eligibility and placement for special education services.
- If an assessment is not considered under standards conditions, a description of the extent to which it varied from standard conditions (e.g., the e.g., the qualifications of the person

administering the test, or the method of test administration, use of the interpreter), including the affects to validity (EC §56320(b)).

- Indicate the name(s) and title/position of the multidisciplinary team members who assisted in compiling the evaluation report.
- Include strategies, accommodations and/or modifications of the child who may need to progress and be involved in the general education curriculum and/or setting based on the evaluation results.

Pursuant to EC § 56327, 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) For pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.
- (g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
- (h) The need for specialized services, materials, and equipment for pupils with low incidence disabilities, consistent with guidelines established pursuant to Section 56136.

(Amended by Stats. 1982, Ch. 1334, Sec. 4.)

Are There Any Exclusionary Factors That Must Be Considered?

There are factors that the evaluation team and IEP team will need to consider to determine if they preclude the student from being identified with a disability. The multidisciplinary evaluation team must consider current legal requirements that describe exclusionary factors and how they are manifested. Some of the factors apply to students who may be considered for having any disability are lack of appropriate instruction in reading, including phonemic awareness, phonics, vocabulary, fluency, text comprehension, lack of instruction in mathematics, and limited-English Proficiency. To make a determination that any of these factors are not the primary reason for the student achievement difficulties, evaluation teams need to document, in the evaluation report, evidence that each of these factors has been considered and ruled out as primary determining factors. If necessary, more data may need to be gathered to eliminate specified exclusionary factors from consideration.

What are the Components of a Comprehensive Evaluation Report?

This section provides best practices related to what is considered to be appropriate and necessary to include in a comprehensive evaluation. There may be some situations where additional information is needed and other times that not all the information listed here is required.

General Testing Guidelines

- All test scores used for decision-making or recommendations have a reliability above 0.90.
- Confidence intervals are reported for all scores.
- The purposes of specific assessment tools are clearly specified.
- Tools used have validity evidence for the purpose indicated.
- For English Learners, evidence exists that test scores are reliable and valid.

Referral Questions

- Referral question is specific and designed to address more than eligibility determination.
- All the assessment tools selected address the referral question.

Instructional Factors

- Core skills for the primary academic concern (e.g., literacy) are assessed.
- An intervention that embraces instructional match in the academic area of concern is described.
- Information about the degree to which the interventions was implemented is included.
- A statement about the degree of match between the student's skill and the intervention is included.
- Empirically evaluated progress monitoring tools are used and clearly described.
- Goal setting process is thoroughly described.
- A decision about the impact of the interventions is included.

Exclusionary Factors

Statements with supporting data indicating the following factors are not the cause of the student's low academic performance are included:

- Visual Impairment;
- Hearing Impairment;
- Orthopedic Disability;
- Intellectual Disability;
- Emotional Disturbance;
- Cultural factors and limited English proficiency; and,
- Environmental or economic disadvantage.

Defining Characteristics of the Disability

- A statement about the student's *need* for special education and a description of the sources of data used to make that conclusion is included.
- A statement about the existence of a specific learning disability and a description of the sources of data used to make that conclusion is included.
- A statement about the model selected for eligibility is included.
- Only one model for eligibility determination is used.

IDEA Guidelines

- A statement or information regarding assessment of all areas that may be related to the area of disability.
- A statement or information about the need for any services not commonly linked to the identified disability
- Recommendations for instruction/intervention based on assessment information.
- The use of multiple measures in determining eligibility.

What Is the Requirement to Translate Written Reports in the Primary Language of Assessments Prior to an IEP?

The SELPA/District must provide written translation of the IEP document, upon request, which is why the SELPA/District doesn't want to include the assessment reports themselves as an IEP document. Providing an interpreter at the IEP to translate the assessment document and assessor information is appropriate and sufficient.

What Is the Requirement to Translate Written Independent Educational Evaluation (IEE) Reports in the Primary Language of Assessments?

The rules are the same whether or not it is a SELPA/District completed assessment or an IEE funded by the SELPA/District. In looking at this requirement, whether or not we need to provide a **written** translation of an IEE, the answer is probably **no**. First, it is assumed the document is a true IEE (i.e., an independent evaluation that the SELPA/District funded). If it were a parent-funded evaluation, any argument for **written** interpretation of the document would be even more tenuous.

The SELPA/District will also have to look at the **context**. For example, if the LEA **attached** the IEE as part of the IEP document itself (i.e., making the IEE a numbered page of the IEP), the SELPA/District would arguably have to translate the document based upon Title 5 CCR §3040(b), which, again, requires us to provide a **written** translation of the "IEP program."

If, for example, the IEE was in the student's file, and the parent requested all of the pupil's record, the LEA would have to provide either an **oral** or **written** interpretation of "the record" for parent pursuant to Title 5 CCR §431.

If this is the normal situation, in which the IEE report itself is discussed at the IEP (and not made a part of the IEP document itself), then an **oral** translation is sufficient. That is the SELPA/District needs only be sure that the parent "understands" the IEP meeting, which can be done through oral interpretation (See EC §56341.5 and 34 CFR §300.322(e)). Remember, too, that OAH will simply examine the situation from a parental participation standpoint - i.e., whether or not the parent understood the IEP proceedings. Of course, oral translation is a sufficient method of providing that understanding.

In the context of an IEP, the SELPA/District can provide an oral (line for line if need be) translation of assessment reports at an IEP, which will be sufficient to meet our translation

obligation. Other documents (such as parents' rights) have more specific requirements that apply to them.

ELIGIBILITY CRITERIA

A pupil shall qualify as an individual with exceptional needs (EC §56026) if the results of the assessment (EC §56320) demonstrate that the degree of the pupil's impairment as described in §3030 (a through j) requires special education in one or more of the program options authorized (EC §56361). The decision as to whether or not the assessment results demonstrate that the degree of the pupil's impairment requires special education shall be made by the IEP team, including assessment personnel (EC §56341(b)). The IEP team shall take into account all the relevant material that is available on the pupil. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the pupil's eligibility for special education. (CCR Title 5 §3030)

The specific categories of eligibility under CCR Title 5 §3030 can be referenced in the California Special Education Programs Composite of Laws; and are delineated as follows:

- (a) Autism
- (b)) Deaf-blindness
- (c) Deafness
- (d) Emotional Disturbance
- (e) Hearing Impairment
- (f) Intellectual Disability
- (g) Multiple Disabilities
- (h) Orthopedic Impairment
- (i) Other Health Impairment
- (j) Specific learning disabilities
- (k) Speech or Language Impairment
- (l) Traumatic Brain Injury
- (m) Visual Impairment

During an initial or triennial IEP team meeting, the school psychologist should summarize the findings of the multidisciplinary team evaluation by indicating whether the pupil may need special education and related services, the basis for making the determination, the relevant behaviors and their relationship to the student's learning disabilities. The discussion should also cover whether there is a discrepancy between achievement and ability that cannot be corrected with general education interventions and is not the effects of environmental, cultural, or economic disadvantage, when appropriate. The team members usually reach consensus on eligibility but, when one or more members disagree, they should sign the IEP as being in attendance and attach a letter of dissent explaining why they disagree. It is important to note that eligibility and placement are two separate IEP team decisions.

What Criteria Do I Use for Determining Eligibility for Autism?

Must exhibit any combination of the following, to include but not limited to:

- An inability to use oral language for appropriate communication.
- A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood.
- An obsession to maintain sameness.
- Extreme preoccupation with objects or inappropriate use of objects or both.
- Extreme resistance to controls.
- Displays peculiar motoric mannerisms and motility patterns.
- Self-stimulating, ritualistic behavior

What Criteria Do I Use for Determining Eligibility for Deaf/Blind Impairment?

- Severe communication problems.
- Severe developmental problems.
- Severe educational problems.

What Criteria Do I Use for Determining Eligibility for Emotional Disturbance?

Because of a serious emotional disturbance, a student exhibits one or more of the characteristics described as follows:

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

Characteristics identified from the list above must have been demonstrated over a long period of time to a marked degree, and have adversely affected educational performance.

The term emotionally disturbed does not include children:

- Who are socially maladjusted.
- Unless it is determined that they have emotional disturbance.

What Criteria Do I Use for Determining Eligibility for Hearing Impairment ?

Must meet all conditions as follows:

- Student has a hearing impairment, whether permanent or fluctuating, that has been identified by an audiological specialist.
- Regardless of amplification, the hearing impairment reduces the processing of linguistic information, including reception and speech discrimination as identified by a speech and language specialist.

The hearing impairment results in either one or both of the following:

- The handicapping condition markedly reduces the ability of the student to learn academic material presented in a modified regular education setting.
- The handicapping condition markedly reduces the student's ability to function in the non-academic areas of modified regular education setting.

What Criteria Do I Use for Determining Eligibility for Intellectual Disabilities/Limited Cognitive Functioning (Mild, Moderate, and Severe)?

Must meet all:

- Significantly below average general intellectual functioning.
- Concurrent deficits in behavior.
- Manifested during the developmental period of birth up to nine years.
- The intellectual disability results in one and/or both of the following:
 - The handicapping condition markedly reduces the pupil's ability to learn academic material presented in a modified general education setting.
 - The handicapping condition markedly reduces the pupil's ability to function in the non-academic areas of a modified general education setting.

What Criteria Do I Use for Determining Eligibility for Multiple Disabilities?

Federal Regulations (34 CFR 300.8) define multiple disabilities as: concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

Multiple disabilities do not include deaf-blindness (because it has its own disability category). Thus under the federal definition, SLD-SLI or ED-SLD would not be examples of a multiple disability since it is unlikely that the combination of these disabilities would result in such severe educational need that the education of the child would have to be conducted in a separate special education program that was uniquely designed to meet the needs of the student as a result of this combination of disabilities.

What Criteria Do I Use for Determining Eligibility for Orthopedic Impairment?

Must meet both of the following criteria:

- Student has severe orthopedic impairment cause by congenital abnormality, disease, or other causes, as determined by medical evaluation.
- The orthopedic impairment results in either one or both of the following:
 - The handicapping condition markedly reduces the ability of the pupil to learn academic material presented in a modified general education setting.
 - The handicapping condition markedly reduces the ability of the pupil to function in non-academic areas of a modified general education setting.

What Criteria Do I Use for Determining Eligibility for Other Health Impairment?

Demonstrated one or more of the following:

- Limited strength.
- Limited vitality.
- Limited alertness.
- Condition must be either one or both of the following:
 - Chronic
 - Acute
- Must be a non-temporary health problem.
- The problem must result in one or both of the following:
 - The handicapping condition adversely affects the pupil's educational performance in listening comprehension, oral expression, basic reading skills, reading comprehension, written expression, math calculations, or math reading.
 - The handicapping condition markedly reduces the pupil's ability to function in the non-academic areas of a modified general education setting.

What Criteria Do I Use for Determining Eligibility for Speech/Language Impairment?

Must meet any of the following criteria:

- Articulation** – The student displays reduced intelligibility or an inability to use the speech mechanism, which significantly interferes with communication and attracts adverse attention.
- Abnormal Voice** – A student is eligible for voice therapy by a speech and language specialist when there is a persistent defective voice quality, pitch or loudness.
- Fluency Disorder** – A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the student and listener.
- Language Disorder** – The student has an expressive language disorder when he or she meets one of the following criteria:
 - The student 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.
 - The student 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 one or more standardized tests in one of the areas listed above and displays inappropriate or inadequate usage or expressive and receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances.

What Criteria Do I Use for Determining Eligibility for Traumatic Brain Injury?

- The child has acquired an injury to the brain by an external force.
- Resulting in total or partial disability and/or psychological impairment.

Causes impairment in one or more areas:

- Cognition
- Memory
- Attention
- Reasoning
- Abstract thinking
- Judgment
- Problem Solving
- Language & Speech
- Sensory
- Perceptual
- Motor abilities
- Psychosocial behavior
- Physical

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

What Criteria Do I Use for Determining Eligibility for Traumatic Brain Injury?

Must meet all:

- Pupil has a disorder in one or more of the basic psychological processes involved in understanding or using spoken and written language.
- Pupil has a severe discrepancy between ability and achievement.
- The discrepancy shall not be primarily the result of limited school experience or poor attendance.
- The decision as to whether or not a severe discrepancy exists shall be made by the IEP Team including assessment personnel in accordance with EC §56034(d), taking into account all relevant material available on the student.

According to EC §56337, a specific learning disability, as defined in §1401(30) of Title 20 of the United States Code, means 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 the imperfect ability to listen, think, speak, read, write, spell, or perform mathematical calculations. The term “specific learning disability” includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage. Notwithstanding any other provision of law and pursuant to §1414(b)(6) of Title 20 of the United States Code, in determining whether a pupil has a specific learning disability, a local educational agency is not required to take into consideration whether a pupil has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. In determining whether a pupil has a specific learning disability, a local educational agency may use a process that determines if the pupil responds to scientific, research-based intervention as a part of the assessment procedures described in §1414(b)(2) and (3) of Title 20 of the United States Code and covered in §§300.307 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations.

Before a student is determined to have SLD, the findings must show that they are not primarily a result of other factors or disabilities, such as visual, hearing or orthopedic disability, intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, limited-English proficiency.

What Criteria Do I Use for Determining Eligibility for Visual Impairment?

Must meet all of the following criteria:

- Student has a visual impairment, as determined by an eye specialist and educators.
- Even with correction, conditions results in either one or both of the following:
 - The handicapping condition markedly reduced the ability of the student to learn academic material presented in a modified general education setting.
 - The handicapping condition markedly reduces the student's ability to function in the non-academic areas of a modified general education setting.

What Criteria Do I Use For Determining Eligibility for a Student Suspected of Having, or Diagnosed with, Attention Deficit Disorder (ADD) or Attention Deficit Hyperactive Disorder (ADHD)?

If the pupil has been diagnosed by a medical doctor as having ADD or ADHD, and through assessment it has been determined special education services and/or related services are require to access the general education curriculum and environment, the assessment team may consider the eligibility requirements listed above under **Other Health Impairment**.

If the pupil has not been diagnosed by a medical doctor, but is suspected of having ADD or ADHD as determined through assessments conducted for determination of eligibility, the assessment team may consider the eligibility requirements listed above under Emotional Disturbance or Specific Learning Disability.

Under both of the conditions listed above, the student suspected or diagnosed with ADD or ADHD must still meet the eligibility requirements listed in Title 5, CCR §3030 to qualify for special education services (EC §56339).

OTHER TYPES OF ASSESSMENTS

The Butte County SELPA has guidelines and/or procedures to support the LEA with addressing the following assessment areas:

- Preschool Guidelines for information on Preschool to Kindergarten or 1st assessment.
- Behavior Guidelines for behavioral assessments and intervention plans.
- Guidelines for English Language Learners
- Guidelines for assessing African American students.
- Related services for independence assistance from instructional aides.
- Assistive technology.
- Determination of the Need for Triennial Review Evaluation.
- Community Resources for information regarding:
 - Far Northern Regional Center
 - California Children Services (CCS)
 - Department of Rehabilitation (DOR)
 - State Schools

What Is the Criteria for Exiting Special Education Services?

When a child no longer meets the eligibility requirements as described in the Eligibility Criteria Sections or their instruction, services, or both, which can be provided with modification of the regular school program, they will be exited from special education. (EC §56026)

What Is the Criteria For Exiting A Student From Special Education at the Age of Twenty-Two (22)?

According to EC §56026:

- 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 turning 22 years of age in July, August, or September of that new fiscal year otherwise eligible to participate in a program shall not be allowed to begin a new fiscal year in a program. 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 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.
- D) No school district, special education local plan area, or county office of education may

develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

What Is the Exit Criteria for Students Who Meet High School Graduation Requirements?

According to EC §56026.1:

An individual with exceptional needs who graduates from high school with a regular high school diploma is no longer eligible for special education and related services. A “regular high school diploma” means a diploma conferred on a pupil who has completed a prescribed course of study and has met the standards of proficiency in basic skills prescribed by the governing board of the school district.

What Are the Requirements For Dismissing/Exiting A Student Who No Longer Meets Eligibility for Special Education Services?

Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and section 300.532 and 300.533 of Title 34 of the Code of Federal Regulations, pursuant to paragraph (1) of subsection (C) of Section 300.534 of Title 34 of Code of Federal Regulations (EC 56381(H)).

TRIENNIAL REEVALUATIONS

INTRODUCTION

A reassessment of the pupil shall be conducted at least every three years or more frequently, if conditions warrant, or if the pupil's parent or teacher requests a new assessment and a new Individualized Education Program (IEP) to be developed. (EC §56381(a)) As part of any reassessment, the IEP team and other qualified professionals, as appropriate, shall do the following:

1. Review existing assessment data on the pupil, including assessments and information provided by the parent(s) of the pupil, as specified in clause (i) of paragraph (1) of subsection (a) of Section 300.304 of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related service providers' observations.
2. In accordance with paragraph (3) of subsection (a) of Section 300.300 of Title 34 of the Code of Federal Regulations, 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 of that test or assessment, consent is required of the parents of all the children. (EC 56321(e))
3. On the basis of the review conducted pursuant to paragraph (1), and input from the pupil's parent(s), identify what additional data, if any, is needed to determine:
 - a) Whether the pupil continues to have a disability described in paragraph (3) of Section 1401 of Title 20 of the United States Code.
 - b) The present levels of performance and educational needs of the pupil.
 - c) Whether the pupil continues to need special education and related services.
 - d) 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 individualized education program of the pupil and to participate, as appropriate, in the general curriculum. (EC Section 56381(b))

If the IEP team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, the district, special education local plan area, or county office shall notify the pupil's parent(s) of that determination and the reasons for it, and the right of the parent(s) to request an assessment to determine whether the pupil continues to be an individual with exceptional needs; however, the district, special education local plan area, or county office shall not be required to conduct an assessment unless requested by the pupil's parent(s). (EC Section 56381(d))

A reassessment may not be conducted, unless the written consent of the parent(s) is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to paragraphs (1) and (2) of subsection (c) of Section 300.300 of Title 34 of the Code of Federal Regulations,

informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent(s) has failed to respond. To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in subsection (d) of Section 300.322 of Title 34 of the Code of Federal Regulations. (EC Section 56381(f))

The IEP team and other qualified professionals may conduct the review without a meeting. (EC Section 56381(g))

Provided below is *Determination of Need for Triennial Review Evaluations*, to assist with the triennial assessment. With these worksheets, the IEP team is able to obtain the data required by the Education Code to make the determination if further formal assessment is needed or if the child continues to meet eligibility for special education services. The informal review process for determining continued eligibility is generally used only when sufficient history and evidence exist that indicates continued eligibility and need for special education services and supports. If ineligibility is suspected or the available data is insufficient, a more formal assessment process would be appropriate.

DETERMINATION OF NEED FOR TRIENNIAL REVIEW EVALUATIONS

Communicate with all team members to determine whether or not a review appears to be appropriate for the student. This decision may or may not be made at an IEP with parent. A person needs to be designated to telephone the parents to explain the Determination of Need for Triennial Review Evaluation process. Either choose to invite them to an IEP to discuss the review, or go over the listed questions and information in order to get their input as a part of the process. Fill out the page while you are talking on the phone. If the parent and/or other team member requests a formal evaluation, develop a prior written notice and an assessment plan and send them out to the family. Assemble the members of the team to review existing data via the process and utilizing the form as noted below.

PART I: DEMOGRAPHICS

- Indicate the student's full name (First Middle Last).
- Indicate the student's birthdate (Month/Day/Year).
- Input student's chronological age.
- Indicate Student's current grade.
- Indicate student's school of attendance.
- Indicate student's district of residence (where the child lays their head at night).
- Input student's identified eligibility per current IEP.
- List the student's current Special education services and related services (FAPE).
- Indicate the student's date of initial evaluation into special education (Month/Day/Year).
- Indicate the most current evaluation date -initial/triennial (Month/Day/Year).
- Indicate the date that the upcoming triennial is due (Month/Day/Year).

PART II: PARENT INPUT

The student's parent was interviewed by on / / and answered the following questions as noted below:

- Indicate who interviewed the parent (Title) and the date (Month/Day/Year).
- Mark either yes or no when answering the questions below.
- Attach information, if available, for numbers 3 and 4.
 1. Do you believe that your child continues to have the disability that qualified him/her for Special Education services? Yes No
 2. Do you believe your child continues to require Special Education services? Yes No
 3. Do you have information to share with the other members of the review team regarding your child's current performance in the educational, home and/or community setting? (Attach) Yes No
 4. Is there any recent medical or other information that you believe the team needs to consider in educational planning for your child? (Attach) Yes No
 5. Comments on any other information parent provided regarding student's educational performance and/or needs:
- Write out information provided by parents in regard to student's needs or educational performance as indicated by answering the questions above.

PART III: TEAM MEMBERS

The following pages document the Determination of Need for Triennial Review Evaluation Data for the student named above.

This report consists of how many pages.

The Review Team consisted of the following members (Check all that apply):

- Parent
- School Psychologist
- Special Education Teacher
- General Education Teacher
- School Nurse
- Related Service Provider
- Other _____

- Check the titles of the people that participated as team members.
- Indicate the student's full name (First, Middle, Last).
- Indicate the student's birthdate (Month/Day/Year).
- Input student's chronological age.
- Indicate Student's current grade.

- Indicate student’s school of attendance.
- Indicate student’s district of residence (where the child lays their head at night).

PART IV: EVALUATION PROCESS: REVIEW OF EXISTING DATA

Student Records Reviewed (Check all that apply):

Mark all of the records that were reviewed.

Student: Birthdate:

Grade:

School of Attendance:

District of Residence/Service:

Psycho-Educational Assessment Report(s) dated:

Related Service Provider(s) Assessment Report(s) dated:

Current IEP dated:

Previous IEPs dated:

Progress toward goals report: Current year: Previous years:

Report Cards: Current year: Previous years:

Special Ed. Teacher Records: Current year: Previous years:

General Ed. Teacher Input: Current year: Previous years:

Attendance Records: Current year: Previous years:

Discipline Records: Current year: Previous years:

Review of health and medical records and review of medications, if applicable:

Student work samples or portfolio:

Other: _____

PART V: RECORD REVIEW FINDINGS/COMMENTS

Document information found during the records review including comments on information reviewed.

PART VI: CONCLUSIONS

Check whether adequate information was obtained to determine continued eligibility OR if additional assessment is needed, and within which area(s).

Adequate information is available based on existing files and records, to determine continued eligibility and need for special education and related services.

Additional assessment needs to be conducted to determine:

- If the student continues to have a disability.
- If the student continues to need special education and/or related service.
- The student’s current levels of performance and educational needs.

If any additions or modifications to the student’s current special education services are needed to enable the student to meet the measurable annual goals set out by the IEP and to participate, as appropriate, in the general curriculum.

PART VII: SIGNATURES

The following people have knowledge of the student’s needs and contributed to this review:

Have each participant (as indicated above) sign the form with their name and position.

Name/Signature _____ *Position* _____

Name/Signature _____ *Position* _____

Name/Signature _____ *Position* _____

Name/Signature _____ *Position* _____

Name/Signature _____ *Position* _____

Name/Signature _____ *Position* _____

STATE STATUTE REGARDING REASSESSMENTS

California Education Code Section 56381 (a)(1) is reprinted below.

56381. (a)(1) A reassessment of the pupil, based upon procedures specified in Section 56302.1 and in Article 2 (commencing with Section 56320), and in accordance with Section 1414(a), (b), and (c) of Title 20 of the United States Code, shall be conducted if the local educational agency determines that the educational or related service needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment.

(2) A reassessment shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary.

If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of a reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following:

(1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in Section 300.305(a)(1)(i) of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers observations.

(2) On the basis of the review conducted pursuant to paragraph (1), and input from the parents of the pupil, identify what additional data, if any, is needed to determine:

(A) Whether the pupil continues to have a disability described in Section 1401(3) of Title 20 of the United States Code.

(B) The present levels of performance and educational needs of the pupil.

(C) Whether the pupil continues to need special education and related services.

(D) 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 individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

(c) The local educational agency shall administer tests and other assessment materials needed to produce the data identified by the individualized education program team.

(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil, the local educational agency shall notify the parents of the pupil of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil. The local educational agency is not required to conduct an assessment, unless requested by the parents of the pupil.

(e) A local educational agency shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in Section 300.306(c)(2) of Title 34 of the Code of Federal Regulations.

(f) (1) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to Section 300.300(c)(1) and (2) of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond.

(2) To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in Section 300.322(d) of Title 34 of the Code of Federal Regulations.

(3) If the parent refuses to consent to the reassessment, the local educational agency may, but is not required to, pursue the reassessment by using the consent override procedures described in Section 300.300(a)(3) of Title 34 of the Code of Federal Regulations.

(4) The local educational agency does not violate its obligations under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the reassessment.

(g) The individualized education program team and other qualified professionals referenced in subdivision (b) may conduct the review without a meeting, as provided in Section 300.305(b) of Title 34 of the Code of Federal Regulations.

(h) Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and in accordance with Section 1414 of Title 20 of the United States Code.

(i) (1) The assessment described in subdivision (h) shall not be required before the termination of a pupil's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under Section 56026.

(2) For a pupil whose eligibility under this part terminates under circumstances described in paragraph (1), a local educational agency shall provide the pupil with a summary of the academic achievement and functional performance of the pupil, which shall include recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals as required in Section 1414(c)(5)(B)(ii) of Title 20 of the United States Code.

(j) To the extent possible, the local educational agency shall encourage the consolidation of reassessment meetings for the individual with exceptional needs and other individualized education program team meetings for the individual.

ASSESSMENT FOR SPECIFIC LEARNING DISABILITY (SLD) ELIGIBILITY

I. Introduction and the Law

In 2014, Title 5 eligibility criteria for specific learning disability (SLD) changed, which included the addition of new methods in the identification of SLD. The IDEA 2004 allows schools the opportunity to develop new approaches in determination of specific learning disabilities (SLD). Specifically, the new guidance in statute and regulations added a Response to Intervention (RtI) model, which was later added to California statute. Furthermore, new federal guidelines prohibited states from requiring local education agencies (LEAs) to utilize a discrepancy model for defining SLD.

Reprinted below is the current *Title 5 California Code of Regulations (CCR) Section (§) 3030 (10)*.

II. Legal Citations

§ 3030. Eligibility Criteria

- (10) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities including association, conceptualization and expression.
- (A) Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.
- (B) In determining whether a pupil has a specific learning disability, the public agency may consider whether a pupil has a severe discrepancy between intellectual ability and achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take 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 IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:
1. 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 standard deviation of 15, the achievement test score and the intellectual 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.

2. 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.
3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP 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 of the 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: (i) Data obtained from standardized assessment instruments; (ii) Information provided by the parent; (iii) Information provided by the pupil's present teacher; (iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores; (v) Consideration of the pupil's age, particularly for young children; and (vi) Any additional relevant information.
4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance. (C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:
 1. The pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading fluency skills.
 - (vi) Reading comprehension.
 - (vii) Mathematics calculation.
 - (viii) Mathematics problem solving, and
 2. (i) The pupil does not make sufficient progress to meet age or State-approved grade

- level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when using a process based on the pupil's response to scientific, research based intervention; or
- (ii) The pupil exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 C.F.R. sections 300.304 and 300.305; and
3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not primarily the result of:
- (i) A visual, hearing, or motor disability;
 - (ii) Intellectual disability;
 - (iii) Emotional disturbance;
 - (iv) Cultural factors;
 - (v) Environmental or economic disadvantage; or
 - (vi) Limited English proficiency.
4. To ensure that underachievement in a pupil suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group making the decision must consider:
- (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (ii) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the pupil's parents.
5. In determining whether a pupil has a specific learning disability, the public agency must ensure that the pupil is observed in the pupil's learning environment in accordance with 34 C.F.R. section 300.310. In the case of a child of less than school age or out of school, a qualified professional must observe the child in an environment appropriate for a child of that age. The eligibility determination must be documented in accordance with 34 C.F.R. section 300.311.

III. How Do I Use RtI During The Evaluation Process For Suspected SLD?

The information collected through the RtI process will assist the evaluation team in making the final decision on if the student meets the eligibility requirements of a student requiring special education services. The data gathered will provide information regarding the lack of progress evident across multiple interventions applied with increasing levels of intensity. This evidence may substantiate a student's need for resources or supports that are usually not available in the general education environment in order to support or sustain progress. It will also provide evidence that the student was having difficulty demonstrating the academic skills necessary for success in the general education environment.

In order to make an evaluation decision, the following information should be provided to the evaluation team:

- Student's individual performance on formative measures, curriculum-based measures, teacher based observations and parent reports
- Tier 2 intervention plan (developed by collaborative team for all students needing additional interventions)
- Progress Monitoring data from the Tier 2 interventions, including student work samples
- Individual Student Intervention Plan developed during the Problem Solving Team Process and accompany data from the monitoring process

By using the data gathered through progress monitoring component of the RtI process, the evaluation team can determine if the difficulties the student is experiencing are due to the presence of SLD. Students with SLD fail to make significant improvement when provided with appropriate intervention and will continue to demonstrate low achievement at the end of the intervention period. The data gathered from the RtI process will assist with identifying the overall effectiveness of the intervention as well as substantiating that the student's skill level is below those of their peers.

In addition, students must meet the following criteria to be considered for an evaluation to determine SLD eligibility:

- Low achievement
- Lack of progress
- Role of exclusionary factors
- Determination that the student has received appropriate instruction
- Need for special education and related service

RtI helps with determining if exclusionary factors are the primary cause for lack of progress. Appropriate instruction being provided to students from diverse backgrounds must be culturally responsive. Local data should be gathered to determine effectiveness of the intervention programs and strategies in relation to meeting the needs of limited-English proficient students and environmentally/economically disadvantaged students. This data will be used to determine if the student with SLD fails to progress at the same rate and/or level as their peers. The United States Department of Education (USDOE) Office of Special Education Programs (OSE) provides further guidance. OSE states that a comprehensive evaluation still needs to be conducted for determining SLD. What this means is:

- The RtI process does not replace the need for a comprehensive evaluation; RtI is one component of the evaluation process.
- Over and above the RtI process, a variety of data gathering tools and strategies will need to be used, because no one single procedure can be used as the sole criterion for determining eligibility. (CA Education Code § 56320(e))

IV. What Are The RtI Specific Learning Disability Criteria?

The following guidelines provide teams the guidance necessary to determine SLD eligibility through an RtI model. A student may be in need of special education services if the evaluation team determines all of the following:

1. **Exclusionary** factors are ruled out as impacting the student's current level of performance.
2. **Instructional** factors have been ruled out as the cause for the student's current level of performance and the student clearly has a need for specialized services.

This is demonstrated by:

- a. The team concludes the student received appropriate instruction in the general education setting.
- b. The team concludes the student's academic under-achievement is not due to a lack of appropriate instruction as assessed by the student's failure to show sufficient progress despite being provided appropriate and instructionally matched intervention(s).
- c. The student requires highly specialized or more intensive services to show progress.

Multi-Tiered System of Support (MTSS) and Pattern of Strengths and Weaknesses (PSW)

The Butte County SELPA is dedicated to the belief that all students can learn, and that students with special needs shall be guaranteed an equal opportunity to become contributing members of society. Butte County SELPA believes in success for all students and supports inclusion in all aspects of life. See the complete Governing Board policy on MTSS at page 33 of this Manual. In order that assessments be considered evidence-based, MTSS for academics in Butte County is central to the success of determination of eligibility under Specific Learning Disability (SLD). Butte County SELPA has made investments in adopting the Pattern of Strengths and Weaknesses Model as its primary mode of assessment for SLD.

For a more detailed description of how MTSS for academics is currently determined in our LEAs, please refer to the Butte County SELPA Local Plan policy on Patterns of Strengths and Weaknesses at the following link:

https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/87003/PSW_Manual_DRAFT_5.24.17.pdf

Pattern of Strengths and Weaknesses Assessment

The Butte County SELPA has spent time, money and resources in researching learning disability assessment methods and developing the Patterns of Strengths and Weaknesses Model as outlined in this manual. The SELPA believes that the transition to the PSW model is a worthwhile endeavor that will result in accurate and valid assessments of students who are suspected of having a Specific Learning Disability (SLD).

The Butte County SELPA PSW Model is based on several core research based principles relating to the definition and assessment of specific learning disabilities:

1. Specific Learning Disabilities are characterized by neurologically-based deficits in cognitive processing (NASP, 2007). This conclusion is supported by a meta-analysis that found significant processing differences between students with SLD and students without SLD (Johnson, Humphrey, Mellard, Woods, & Swanson, 2010).
2. Research has demonstrated the existence of specific cognitive processes (Flanagan et al., 2013; Hale & Fiorello, 2004; Dehn 2014a). Researchers are also in agreement that sound tools and measures exist to assess these cognitive processing areas (LDA, 2010).
3. Research has also found links between various cognitive processes and specific areas of academic achievement (see COMPARES annotated bibliography, available on www.Buttcountyselpa.com).

While the use of the Ability-Achievement Discrepancy Model has been in widespread use for decades, academia has long pointed to a variety of flaws and problematic outcomes in using this method to identify learning disabilities (LDA, 2010). This model has been nicknamed the “Wait to Fail Model,” as it is often difficult to find a large enough discrepancy between a student’s ability and achievement at a young age, thus making early intervention by way of specialized academic instruction difficult for students with SLD. In using this model, it is also unclear to many practitioners which I.Q. score should be utilized for comparison with academic scores, especially when a Full Scale I.Q. score is significantly impacted by a child’s processing deficit(s). Many researchers note that this model has led to an over-identification of students, is not developmentally sensitive and is not used consistently among practitioners (LDA, 2010).

The Butte County SELPA acknowledges the research that indicates that the the Response to Instruction and Intervention (RtI²) method for identifying SLD does not in itself provide enough evidence to support the presence of an SLD (LDA, 2010). Low achievement alone is not a suitable indicator of SLD (Fiorello et al., 2006; 2008; 2009). Literature indicates that not every student who fails to respond to quality instruction and intervention possesses neurologically- based processing deficits. Further, studies examining this method have not been successful in reliably identifying which students are considered non-responders (LDA, 2010). Using low achievement as the primary factor for determining eligibility also has the potential to increase the over-representation of minority students in special education (CASP, 2014). However, it should be noted that the Butte County SELPA does support the use of an RtI² model for pre- referral interventions. (See MTSS/ RtI²/Pre-referral Guidelines Section)

The Butte County SELPA PSW Model provides detailed information about “within learner” traits in relation to environmental demands (SELPA, 2009). The comprehensive evaluation required within the PSW model provides information about a learner’s individual cognitive processes that is only pursued when considering a student’s lack of response to appropriate or targeted interventions; thus the PSW Model answers the essential question of *why* the student is not responding. It also serves to better assist teams in ruling out additional causes for underachievement, including exclusionary factors and cognitive characteristics that do not support the conceptualization of SLD (e.g. all weaknesses and no strengths). This model may further assist teams in explaining what areas can be remediated and what areas require accommodations (Hanson et al., 2009).

The SELPA believes that the PSW model is a valid method for assessing students with suspected learning disabilities. Due to its strong emphasis on research based principles, it has been suggested this model may provide more legally defensible information in litigious cases (Feifer & Della Toffalo, 2007).

Additionally, since a PSW assessment answers the question of *why* a student is struggling academically, educators can more accurately target interventions to meet a learner's specific needs, regardless of whether the student meets eligibility requirements for Special Education (Mascolo, Alfonso & Flanagan, 2014). Although further research is needed for establishing relationships between cognitive domains and strategies (LDA, 2010), current evidence is stronger for some psychological processes and interventions (e.g. reading) than others (e.g. writing and math). There are various studies that have linked PSW evaluation with features of curricula, teaching methods and classroom environments (Feifer, 2008; Keene & Zimmerman, 1997; Beringer et al., 2007; 2008; Swanson & Saez, 2003; Fletcher et al., 2003; Mascolo et al., 2014).

While the Butte County SELPA PSW Model does not mandate that individual schools utilize a Response to Instruction and Intervention model (RtI²) as a pre-referral requirement, there are certain basic elements that should be considered prior to developing an assessment plan for an SLD evaluation (see MTSS/ RtI²/Pre-referral guidelines section). It should be noted that the PSW model works best when it is used in conjunction with an instruction and intervention model that includes Multi-Tiered Systems of Support (MTSS) along with effective screening and progress monitoring procedures. Some practitioners have reported that up to one-third fewer students are being identified as having an SLD when using a combined RtI/PSW model, as they are more accurately able to identify other disabilities (e.g. OHI, ED) or exclusionary factors (e.g. environmental, instructional, attendance, language considerations) as the primary cause for a student's underachievement (Hanson et al., 2009). Based on the above information, along with other well-established bodies of research, the Butte County SELPA endorses PSW as an assessment model for the identification of students with SLD.

See also Butte County SELPA Procedure Manual for Assessment Using Pattern of Strengths and Weaknesses at:

https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/87003/PSW_Manual_DRAFT_5.24.17.pdf

ASSESSING AFRICAN-AMERICAN STUDENTS

This section was adapted with permission from the Riverside County Special Education Local Plan Area (SELPA), "Guidelines for Assessing African-American Students."

For purposes of evaluating a student for special education eligibility, a local education agency (LEA) must ensure that the student is assessed in all areas of a suspected disability. The evaluation must also be sufficiently comprehensive to identify all of the student's needs. These guidelines for assessing African-American Students for special education contain the following sections: (1) a summary of Larry P. litigation, (2) a list of prohibited tests, (3) questions to ask about a new

assessment tool, (4) acceptable assessment strategies and tools, and (5) how to purge information from a pupil record.

Summary of *Larry P.* Litigation

The following points summarize the *Larry P.* litigation to date regarding the use of Intelligence Quotient (IQ) tests with African-American students. Information for this summary is taken from California Association of School Psychologists (CASP, 1993, 1996), California Department of Education (CDE) (2012), Wenkart (1994), and Zolotar (1994).

In the late 1970s, the *Larry P. v. Riles* case was filed against the state of California on behalf of African-American parents who argued that the administration of culturally biased standardized IQ tests resulted in disproportionate numbers of African-American children identified and inappropriately placed in special education classes for the Educable Mentally Retarded (EMR).

An additional concern was that, once placed in such classrooms, the children did not have access to the core curriculum taught in regular classes. In 1979, Judge Peckham prohibited the use of IQ tests for placing African-American students in classes for EMR or “their substantial equivalent” after concluding that IQ tests were racially and culturally biased, and were responsible for the disproportionate placement of African-American students in “dead-end” classes.

In 1986, Judge Peckham expanded his 1979 order and prohibited the use of IQ tests for African-American students for any special education program. He further stated that even with parental consent, IQ tests may not be given to African-American students, nor may IQ scores from any other source become part of the pupil’s school record.

In 1986, the CDE issued a directive to state special educators regarding the *Larry P.* litigation. It reconfirmed that school districts are not to use intelligence tests in the assessment of African-American students who have been referred for special education services. In lieu of IQ tests, districts should use alternative means of assessment to determine identification and placement. Such techniques should include, and would not be limited to, assessments of the pupil’s personal history and development, adaptive behavior, classroom performance, academic achievement, and evaluative instruments designed to point out specific information relative to a pupil’s abilities and inabilities in specific skill areas. There are no special education related purposes for which IQ tests shall be administered to African-American pupils. Further, IQ tests shall not be used to determine whether an African-American student is learning disabled, because it is possible that the resulting score could subsequently result in the pupil being identified as mentally retarded. Therefore, the prohibition on IQ testing prohibits any use of an IQ test as part of an assessment, which could lead to special education placement or services, even if the test is only part of a comprehensive assessment plan.

In 1988, a group of African-American parents whose children had learning problems requested a reexamination of Peckham’s 1979 ruling, which banned the use of standardized IQ tests for their children. They believed the results of IQ testing would help clarify the kind of help and services their children needed. The families asserted that the ban on standardized intelligence testing for African-American children, solely on the basis of racial differences, was discriminatory. This case became known as *Crawford v. Honig*. Judge Peckham granted the parents’ request for an injunction, thereby allowing their children to take IQ tests despite the ban by the CDE.

In the 1992 ruling on *Crawford v. Honig* Judge Peckham issued a Memorandum and Order, which rescinded his 1986 ban on preventing the administration of IQ tests to African-American children as part of an assessment for all special education programs. Peckham indicated his 1986 ruling violated the rights of African-American parents who want the option of having their children tested due to suspected learning disabilities and not “substantially equivalent” to EMR programs. He called for a follow-up court hearing to determine the current meaning of “substantial equivalent”. This ruling did not reverse the 1979 *Larry P. v. Riles* decision.

In 1992, the CDE issued a legal advisory (LO: 1-92) analyzing Judge Peckham’s 1992 decision in *Crawford v. Honig*. The legal advisory indicated the new Memorandum and Order has not altered the original 1979 ruling in *Larry P.* Rather, it ordered the CDE and the *Larry P.* plaintiffs to assist the court in defining the “substantial equivalent” of an EMR class in the context of the state’s current special education programs. The court described “dead-end” classes as those which (a) students typically do not receive the regular curriculum and fall farther and farther behind students in regular classes, (b) fewer than 20% of students are returned to the regular classroom, and (c) African-Americans are disproportionately represented. The legal advisory concluded that current special education programs may meet the court’s criteria of “dead-end” classes. Therefore, the ban on IQ testing of African-American students should continue for all special education placements.

In 1993, the California Association of School Psychologists (CASP) challenged the CDE arguing that the legal advisory and compliance report were incorrect as a matter of law; and that school psychologists had the sole right to determine to whom IQ tests must be given or not given. The federal district court dismissed CASP’s case without leave to amend, the basis of which being that the court did not have jurisdiction over CASP’s allegations.

In 1993, when a district attempted to use IQ tests with informed parental consent the CDE found them out of legal compliance, concluding harm occurs whenever African-American children are removed from the mainstream and segregated into special education classes.

A 1994 ruling by the U.S. Court of Appeals for the Ninth Circuit, despite media reports to the contrary, continues the prohibition of IQ testing on California’s African-American school children. The court narrowly affirmed the late Judge Peckham’s 1992 ruling in *Crawford v. Honig* rescinding his 1986 modification order that expanded the original ban. Judge Peckham’s 1979 permanent injunction against IQ testing on African-American students, in *Larry P.* has not been altered either by his 1992 ruling or by the Ninth Circuit’s recent ruling. The Ninth Circuit also affirmed Judge Peckham’s decision to order additional district court hearings to determine the contemporary meaning of the 1979 permanent injunction (which includes defining special education programs that are “substantially equivalent” to EMR “dead-end” placements).

In 1994 Barry A. Zolotar, Deputy General Counsel, CDE, sent a letter to the field advising school districts to review the CDE legal advisory, dated September 10, 1992, which analyzes the relationship between *Larry P.*, and *Crawford*, and its Fairfield - Suisun Compliance Report which:

1. Provides an overview of the 1979 permanent injunction;
2. Emphasizes Judge Peckham’s findings in 1979, which have never been refuted, that the Americanized version of IQ tests are inherently biased against African-American children;
3. Reiterates the court’s finding that parental consent can never overcome inherent testing

- bias; and
4. States that the CDE has independent statutory authority under both federal and state law to prohibit school districts from administering standardized tests that have not been validated for the purposes for which they are being used.
 5. The CDE knows of no standardized test that has ever been validated for the purpose of either identifying children as educationally disabled, or removing and isolating them from the general school population and the core curriculum.

In summary, it is important to emphasize that the *Larry P.* court found IQ tests to be racially and culturally biased against African-American students. The Individuals with Disabilities Education Act (IDEA) and California Education Code prohibit the use of discriminatory testing and evaluation materials. This comprehensive statutory prohibition is not limited either by the narrow scope of the permanent injunction in *Larry P.* or the *Crawford* decision. It applies to all members of the *Larry P.* plaintiff class: “all black California school children who have been or may in the future be classified as mentally retarded on the basis of IQ tests.” Judge Peckham, in *Crawford*, stated that the *Larry P.* plaintiff class includes black children “who have learning disabilities that may affect their academic performance.” Thus, the statutory prohibition applies to all African-American school children who are already in special education and identified as having learning disabilities and those who have been referred for assessment and are at risk of being identified as “disabled” on the basis of racially and culturally standardized tests (Zolotar, 1994; cited by CDE, 2012).

Prohibited Tests

The basic intelligence tests listed below are prohibited based upon the original 1979 *Larry P.* court decision (A report of the *Larry P.* Task Force, 1989):

- Arthur Point Scale of Performance
- Cattell Infant Intelligence Scale
- Columbia Mental Maturity
- Draw-a-Person
- Gessell Developmental Schedule
- Goodenough – Harris Drawing Test
- Leiter International
- Merrill – Palmer Preschool Performance Test
- Peabody Picture Vocabulary Test
- Raven Progressive Matrices
- Slosson Intelligence Test
- Stanford – Binet
- Van Alstyne Picture Vocabulary
- Weschler Adult Intelligence Scale (WAIS)
- Weschler Intelligence Scale for Children (WISC)
- Weschler Intelligence Scale for Children-Revised (WISC – R)
- Weschler Preschool and Primary Scale of Intelligence (WPPSI)

The 1986 *Larry P.* Settlement recommended additional tests, which purport to be or are understood to be a standardized test of intelligence, would be subject to the *Larry P.* prohibitions (A Report of the *Larry P.* Task Force, 1989). These assessments are listed below.

- Cognitive Abilities Test
- Expressive One – Word Picture Vocabulary Test (EOWPVT)
- K – ABC Mental Processing Subtests
- McCarthy Scales of Children’s Abilities
- Structure of Intellect Learning Aptitude Test
- Test of Intellect Learning Aptitude Test
- Test on Nonverbal Intelligence (TONI)
- Test on Nonverbal Intelligence – II (TONI – II)
- Test of Cognitive Ability from the Woodcock – Johnson (including the cognitive section of the Bateria Woodcock Psico – Educativa en Espanol)
- Test of Cognitive Ability from the Woodcock – Johnson – Revised (WJ – R)
- Test of Cognitive Ability from the Woodcock – Johnson – III (WJ – III)
- Cognitive Subtest of the Battelle Developmental Inventories

NOTE: Any tests that have undergone revisions that appear on these lists should be considered prohibited to use with African-American students (e.g., WISC–III or IV, WISC–RM, WAIS–R, WPPSI–R, PPVT–R, EOWPVT–R)

In 1987, CASP reported, although not banned by the courts or specifically addressed by the CDE, multidisciplinary assessment personnel are “cautioned” against using tests, which might be regarded as IQ tests and/or have been validated primarily through correlation with identified tests of intelligence. These include, but are not limited to, the assessments listed below.

- Differential Abilities Scale (DAS)
- Detroit Test of Learning Aptitude, all forms
- Language Processing Tests
- Matrix Analogies Test
- Nonverbal Test of Cognitive Skills
- Ross Test of Higher Cognitive Skills
- Test of Adolescent Language
- Test de Vocabulario en Imagenes Peabody

In 2012, CDE stated that there is an ongoing prohibition on the use of any assessment that could yield an intelligence score for African-American students. (Balcom, 2012.)

Questions to Ask About New Assessment Tools

The *Larry P.* Task Force (1989) reported that above lists may not be inclusive of all assessment tools, which should be prohibited or used with caution in the assessment of African-American students. At the CASP Convention (1996), the following considerations in test selection and

interpretation were recommended in making a determination of whether a test falls under the IQ test ban for African-American students:

- a) Is the test standardized and does it purport to measure intelligence (cognition, mental ability or aptitude)?
- b) Are the test results reported in the form of IQ or mental age?
- c) Does evidence of the (construct) validity of the test rely on correlations with IQ tests?

An affirmative answer to any of these questions indicates that use of the test may fall within the ban.

In 2012, the CDE shared an internal letter from Leo Sandoval to CDE consultants explaining that, according to the ruling, the compliance guidelines:

1. Prohibit the use of specific tests;
2. Include a list of additional prohibited tests until they “are validated as unbiased by the State Board of Education (SBE) and approved by the court”;
3. Indicated that any tests would be prohibited if “there is noted scores that would provide a measure of intelligence of African-American students; and
4. Any standardized measure of intelligence should not be used with African-American students until such time as they are validated as unbiased by the SBE and approved by the court.

Appropriate Assessment Tools and Strategies

The assessment field continues to provide new assessment tools and/or to revise existing tools utilized in schools to determine if a student may be eligible for special education services. CASP (1996) reported that conceptual strategies to use for an evaluation may include developmental, dynamic, ecological, and/or neuropsychological assessment; information and/or psychological processing; and skills with subjects. The following tests were identified as acceptable for use with African-American students.

- Behavioral Assessment of Dysexecutive Syndrome (BADS)
- Brief Test of Attention (BTA)
- Cognitive Assessment System (CAS)
- Rey – Osterrieth Complex Figure Test (CFT)
- Children’s Memory Scales (CMS)
- Continuous Performance Test (CPT)
- CA Verbal Learning Test (CVLT)
- Delis – Kaplan Executive Function System (D – Kefs)
- A Developmental Neuropsychological Assessment (NEPSY)
- Rey Auditory Verbal Learning Test (RAVLT)
- Tactile Performance Test (TPT)
- Test of Visual Perception Skills (TVPS)

- Wisconsin Card Sort Test (WCST)
- Wechsler Memory Scale (WMS)
- Wide Range of Assessment of Memory and Learning (WRAML – 2)

In 2011, an Office of Administrative Hearing (OAH) case found that the Naglieri Nonverbal Ability Test (NNAT), a brief nonverbal assessment instrument designed to assess non-verbal reasoning and general problem solving ability, was determined to not result in an IQ score and to not violate the *Larry P.* injunction. Per the OAH (2011):

1. The assessment must be conducted in a way that:
 - a. Uses a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by parent;
 - b. Does not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability; and
 - c. Uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
2. The assessment used must be:
 - a. Selected and administered so as not to be discriminatory on a racial or cultural basis;
 - b. Provided in a language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally;
 - c. Used for purposes for which the assessments are valid and reliable;
 - d. Administered by trained and knowledgeable personnel; and
 - e. Administered in accordance with any instructions provided by the producer of such assessments.
3. If the evaluation procedures required by law are met, the selection of particular testing or evaluation instruments is at the discretion of the local education agency.

How to Purge Information from A Pupil Record

In Judge Peckham’s 1986 *Larry P.* decision regarding prohibition of IQ testing of African-American students, he also declared IQ scores from any other source cannot become part of the pupil’s school record. The CDE issued a directive (Campbell, 1987) on how to dispose of *Larry P.* records generated prior to September, 1986. It reads as follows:

Before a black special education student is re-evaluated for special education or transfers to a new district all prior records of IQ scores, or references to information from IQ tests, should be permanently sealed. The records are to be opened only for litigation purposes, official state or federal audits, or upon parent request. The parent shall be given copies of the sealed records upon request. The sealed records shall be maintained for a period of five years.

Prior to sealing the records of these students, the parents shall be notified that the records will be sealed because of a court decision, which prohibits the use of intelligence tests for black students for any purpose related to special education. Additionally, prior to sealing the records, a qualified professional should identify appropriate data to be copied and purged of all IQ scores or references to information from IQ tests. The remaining data should then be transferred to the student’s current record. In no case shall the IQ test information be made available to the IEP team for any purpose.

As California school districts are the only agencies prohibited from using IQ tests with African-American students, it is often the case that African-American pupil records received from out-of-state and/or another agency contain IQ test information. Therefore, the steps listed below are recommended when it becomes necessary to purge information from a pupil record.

1. Review the case file to determine if prohibited information is contained therein.
2. Remove any prohibited protocols and all assessment reports which contain IQ information.
3. Duplicate the original report.
4. Use a blank tip marker or liquid “white-out” to remove the following information on the duplicated copy.
 - a. Any reference to a test instrument, which yields an IQ score or standard score that is an indication of cognitive functioning.
 - b. Any test data summary scores from the test instrument(s).
 - c. Commentary in the report, which discusses the pupil’s performance on the test instrument(s).
5. Make a duplicate copy of the purged report. File this in the pupil record.
6. Destroy the copy with the black tip marker or liquid “white-out.”
7. Notify the parent/guardian that the pupil’s records are being sealed. (Sample letter follows)
8. Seal the original report, any relevant protocols, and a copy of the letter sent to the parent/guardian in a manila envelope. Indicate the Pupil’s name and destruction date of five years hence on the outside of the envelope. Also attach a label indicating the envelope is only to be opened for purpose of litigation, official state or federal audits, or upon parent request.
9. Add the pupil’s name to a district level master list of pupils whose files have been purged and reports sealed due to the *Larry P.* ruling.

(District Letterhead)
Sample *Larry P.* Letter to Parent/Guardian

Date:

Name:

Address:

RE: (Pupil's Name)

DOB:

Dear Parent/Guardian:

This letter is to inform you that the _____ District has sealed and purged the assessment report for the above named child due to a ruling by Judge Robert F. Peckham of the United States District Court; San Francisco, in 1986 that school districts may not use Intelligence Quotient (IQ) tests in the assessment of African-American pupils who have been referred for special education.

This has been upheld by the U.S. Court of Appeals for the Ninth District and is enforced by the California State Department of Education. California school districts are required to remove from the pupil record any IQ scores, or references to information from IQ tests, for African-American students who were tested prior to this ruling or by another state/agency. The district is also required to notify the parent/guardian of such pupils who previously received IQ testing, that we are now permanently sealing these records. The sealed record may only be opened for purposes of litigation, official state or federal audits, or upon parent/guardian request. A copy of the revised report is enclosed for your information. It will or has replaced the previous report in your child's file.

If you have any questions or concerns, please call me at:

Sincerely,

(Special Education Administrator)

INDEPENDENT EDUCATIONAL EVALUATIONS (IEEs)

Much of this information is taken directly from the Butte County SELPA Independent Educational Evaluations Policy, which sets forth the procedures under which students with disabilities are entitled to an IEE at public expense.

Legal Authority: Individuals with Disabilities Education Act: Section 300.502 Independent Educational Evaluation. (20 U.S.C. 1415 (b)(I) and (d)(2)(A)); California Education Code Section 56329.

The Butte County Special Education Local Plan Area (“SELPA”) has developed this policy, corresponding procedures and criteria that govern independent educational evaluations. (20 USC 1415; EC 56506[c]; EC 56329[b]; 34 CFR 300.502). For purposes of this policy, the term “SELPA” also includes the appropriate school district/charter school and/or administrative unit responsible for your child’s education.

Parents should be sure to read the entire document carefully prior to obtaining a private educational evaluation at their own expense. Before obtaining an independent educational assessment, please contact your District’s special education administrator to discuss your assessment questions and options. Please read this document before obtaining or paying for an independent education assessment. This document may limit your right to reimbursement. Please note the District or SELPA will not automatically reimburse parents who unilaterally obtain independent educational evaluations. Please review this document for further information about a parent’s right to obtain independent assessments at public expense.

The policy, procedures, and criteria are to be read in conjunction with one another as one comprehensive document. Parents who need additional information about independent educational evaluations should contact their district Special Education Administrator, the Butte County SELPA, or the California Department of Education as outlined in their Notice of Parent’s Rights and Procedural Safeguards.

Definitions

1. *Independent Educational Evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the Local Educational Agency (LEA or District) that completed the assessment at issue.
2. *Qualified Examiner* is an evaluator who is competent (i.e. licensed or credentialed) to perform the evaluations through criteria established by the LEA in accordance with Education Code § 56322.
3. *Public Expense* means the LEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
4. *Parent-Initiated Evaluation* is an educational evaluation obtained by the parent at private expense.

Parent Requests For Independent Educational Evaluations

Parents who have a child with a disability have the right to an independent educational evaluation at public expense if they disagree with an evaluation completed by the LEA. Parents may only request an IEE in response to each evaluation completed by the LEA. Parents must make a request for an

IEE so long as it comes within two years of the date of presentation of the assessment which they disagree consistent with the statute of limitations.

If the parents request an independent educational evaluation at public expense, the parents will be asked the reason why they object to the evaluation conducted by the LEA. The LEA may not, however, require the parents to explain their reasons and may not unreasonably delay either providing an independent educational evaluation at public expense or initiating a due process hearing to defend its evaluation. If the LEA

Initiates a hearing and the final decision is that the evaluation conducted by the LEA was appropriate, the parent/guardian still has the right to an IEE, but not at public expense.

Independent Assessment Requests

Parents must indicate in writing to the LEA or inform the LEA at an IEP meeting that they disagree with an evaluation conducted by the LEA and that they are requesting an independent educational evaluation at public expense. If the parent makes an oral request for an IEE, LEA staff shall offer to assist the parent in putting the request in writing and shall assist the parent if the parent so requests.

Once the parent communicates his/her disagreement with the evaluation(s) completed by the LEA and requests an IEE at public expense, the following procedures will be followed:

1. The parent will receive a copy of this IEE policy, which includes the agency criteria for independent educational evaluations, along with a copy of their Parents' Rights and Procedural Safeguards.
2. The LEA will determine whether to initiate due process to establish the appropriateness of its evaluation or proceed with providing an IEE.
3. If the LEA agrees to fund an IEE, the parent will be asked to provide his/her input into the development of the assessment plan and to indicate the specific portions of the LEA's evaluation(s) with which he or she disagrees.
4. The parent will be provided with a list of potential evaluators and how these evaluators may be contacted. The list is not intended to be exhaustive and is not intended to limit a parent's options in obtaining an IEE from other qualified professionals who meet the agency criteria outlined in this policy.
5. In the event that a parent/guardian requests to utilize an evaluator who does not meet agency criteria, the LEA shall provide the parent the opportunity to demonstrate that there are unique circumstances to justify their selection of such an evaluator. The LEA will then make a determination if the use of the requested evaluator that does not meet agency criteria is warranted, and respond to the parent with a prior written notice, per 34 C.F.R. § 300.503.
6. The LEA will develop an assessment plan, which specifies those areas to be evaluated. The completed assessment must comply with the location limitations for the evaluation, the minimum qualifications for the examiner, cost limits, and use of approved instruments.
7. The assessment plan will be sent to the parent for his/her review and consent within 15 calendar days of the parental request for an IEE.
8. Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the LEA.

9. Upon receipt of the signed consent to assess, the LEA will arrange for the completion of the IEE.

10. Independent education evaluators will be requested to write reports focusing on the “unique needs” of the child and if appropriate the types of special education programs and services recommended to address the “unique needs”. Independent education evaluators will be requested not to identify specific providers of special education programs and services as to avoid any possible “conflict of interest” situations. Evaluators must be knowledgeable of and agree to comply with all provisions of the Federal Code of Regulations (IDEA) and California Education Codes governing special education, to include the criteria required to make recommendations for eligibility.

If the parent obtains an IEE at private expense, the results of the evaluation (if the evaluation meets the agency criteria) must be considered by the LEA in making educational decisions as required by the Individuals with Disabilities Education Act. The evaluation may also be presented as evidence at a due process hearing regarding the child.

Timeline Regarding Completion of Independent Educational Evaluations

In the interest of consistency between public and private evaluations, parents are encouraged to choose an option for additional assessments offered by the LEA within 15 calendar days of receiving the options.

After the parent signs an assessment plan for completion of an IEE, the LEA will initiate a contract with the examiner. If the selected evaluator indicates that he/she cannot complete the evaluation and provide a written report within 60 days of receipt of the parent’s signed consent for the IEE, the LEA will inform the parent and request agreement to either extend the assessment timeline or select another assessor.

Independent Evaluations Not Funded By the LEA

The LEA does not have an obligation to reimburse parents/guardians for privately obtained evaluations completed prior to the date that the LEA’s evaluation is completed and discussed at an IEP Team meeting.

Consideration of Independent Educational Evaluations

Independent educational evaluations are designed to determine the educational needs of students with disabilities. The LEA is responsible for offering appropriate placements and services. Therefore, the LEA will consider recommendations contained in independent educational evaluations completed in accordance with this policy and its implementing procedures and criteria. Independent educational evaluations, however, will not control the LEA’s determinations regarding eligibility for special education, appropriate goals, objectives and/or placement recommendations and may not be considered if not completed by a qualified professional.

Reimbursement for Completed Independent Educational Evaluations

If parents/guardians request reimbursement for a completed IEE, the evaluation must meet the agency criteria included in this policy. It is the responsibility of the director/coordinator of the LEA to determine whether the completed IEE meets the agency criteria. Once the LEA receives a request for reimbursement, the special education administrator shall respond to the parent/guardian in a timely manner. Reimbursement for the IEE assessments shall be limited to the cost limitations set

forth in this policy. If the LEA files for a due process hearing, the parents will not be reimbursed for the cost of the evaluation unless the LEA is ordered to reimburse the parents pursuant to a due process hearing decision.

If the LEA determines that the completed IEE does not comply with agency criteria, the LEA must inform the parent in writing, the reason(s) that the completed IEE does not comply with agency criteria. The LEA shall give parent an opportunity to demonstrate that the student has unique circumstances (such as complex medical or other needs, foreign language, etc.) warranting reimbursement for the cost of the IEE even though the completed IEE does not comply with agency criteria.

After the parent responds to the LEA's request, the LEA shall timely determine if the student has unique circumstances warranting public payment for the entire cost of the completed IEE. If the LEA determines there are unique circumstances warranting public funding, the LEA shall inform the parent in writing and without unreasonable delay, pay the entire cost of the completed IEE.

If the LEA determines that the student does not have unique circumstances warranting public payment of the completed IEE, the LEA shall inform the parent in writing. If the parent continues to request funding of the completed IEE, the LEA shall, without unreasonable delay, request a due process hearing to demonstrate that the completed IEE does not meet with agency criteria. If the LEA files a request for a due process hearing, the parent shall not be reimbursed for any cost of the IEE unless the LEA is ordered to do so pursuant to a due process hearing decision.

Local Educational Agency Criteria

The criteria, under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the examiner, cost limits, and use of approved instruments, must be consistent with the criteria set forth in this policy. In the event that the parent believes that due to the unique needs of their particular child it is necessary to select an assessor who does not meet agency criteria, parent will be given an opportunity to explain factors, which make such a selection necessary.

Parents will be required to sign consent for the evaluation and appropriate releases to exchange information between the independent educational evaluator and the LEA as a prerequisite to the payment or provision of an IEE. Assessors must meet all requirements of the LEA, including fingerprinting and appropriate insurance coverage as requested. Independent evaluators must agree to release their assessment information, testing protocols, report, and results to the LEA prior to the receipt of payment for services. The results of the IEE will be considered in the diagnosis, program decisions, and placement of the child with disabilities as required by the Individuals with Disabilities Education Act.

If the LEA observed the child in conducting the evaluation with which the parents disagree or if its assessment procedures allow in-class observations, the independent examiner will be provided with an equivalent opportunity to observe the child 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 examiner'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 to protect the privacy interests of other students. These parameters may include, but are not limited to, identifying the time constraints of such observation, district personnel who will participate in the

observation and restrictions on student/teacher interactions. See Butte County SELPA Guidelines for School-Based Classroom Observation.

Location Limitation for IEE Evaluators

Evaluators must be located within 90 (ninety) miles of the prospective school district. Evaluators outside of this area will be approved only on an exceptional basis by the LEA/district if the parents or the LEA can demonstrate there is a unique need for a specialized evaluation and that there are no qualified evaluators within the specified area who can appropriately assess their child's educational needs. IEE Evaluators will be paid the federal business mileage reimbursement rate for required travel if assessor is located outside of Butte County associated with the assessment to the student's school of attendance.

Conflicts of Interest

The LEA may, at its discretion, refuse to fund an IEE by an independent evaluator who provides service(s), or is sought to provide service(s) to the student for whom the IEE is requested. Likewise, the LEA may, at its discretion, refuse to fund services through an individual or agency who has conducted an IEE for a particular student.

Criteria for Administration and Selection Of Testing Instruments

The instruments used for the IEE must be selected and administered in a manner that is not racially, culturally, or otherwise discriminatory. If student's primary language is a language other than English, tests must be administered in the student's primary language or other mode of communication, unless it is not feasible to do so. Tests and other evaluation materials must be validated for the specific purposes for which they are used, and must be administered by trained personnel and tailored to evaluate specific areas of educational need.

Cost Limitations for Evaluations

The cost of an IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or the going rate in the area for contractors to perform a similar assessment. Costs include: observations, record review, 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.

<i>The following cost limitations have been agreed upon and set forth by the governing Board of the Butte County SELPA: Type of Assessment</i>	Allowable Rate Range <i>(Actual cost should depend on tasks performed and assessor qualifications) effective 2019</i>
Academic Achievement	\$500-\$800
Adapted Physical Education (APE)	\$600-\$1,000
Assistive Technology	\$800-\$2,000
Behavioral-Functional Behavior Analysis (FBA)	\$1,200-\$1,500
Central Auditory Processing (CAPD)	\$1,200-\$1,750
Occupational Therapy	\$300-\$950
Physical Therapy	\$1,200-\$1,500
Psycho-Educational/Neuropsychological <i>(Includes academic achievement)</i>	\$1,400-\$5,000

Recreational Therapist	\$500-\$800
Speech and Language	\$650-\$1,500

Minimum Qualifications of Independent Evaluators

Independent evaluators must have the following minimum credentials. All licenses and credentials must be issued by the appropriate agency or board with the State of California.

Academic Achievement	<ul style="list-style-type: none"> • Credentialed Special Education Teacher; • School Psychologist ; or • Licensed Educational Psychologist
Adaptive Behavior	<ul style="list-style-type: none"> • Credentialed Special Education Teacher; • School Psychologist; or • Licensed Educational Psychologist
Adapted Physical Education	<ul style="list-style-type: none"> • Credentialed Adapted PE Teacher
Assistive Technology	<ul style="list-style-type: none"> • Credentialed or Licensed Speech/Language Pathologist; • Credentialed or Certificated Assistive Technology Specialist; or • Credentialed Special Education Teacher
Auditory Acuity	<ul style="list-style-type: none"> • Licensed Educational Audiologist; or • Licensed or Credentialed Speech/Language Pathologist
Auditory Perception/ Auditory Processing	<ul style="list-style-type: none"> • Licensed or Credentialed Speech/Language Pathologist; • School Psychologist; or • Licensed Educational Psychologist
Functional Behavior Assessment	<ul style="list-style-type: none"> • School Psychologist; • Licensed Educational Psychologist; or • Board Certified Behavior Analyst
Cognitive	<ul style="list-style-type: none"> • School Psychologist
Health (including Neurological)	<ul style="list-style-type: none"> • Licensed Physician; or • School or Registered Nurse
Motor	<ul style="list-style-type: none"> • Licensed Physical Therapist; • Licensed Occupational Therapist; • Credentialed Teacher of Students with Orthopedic Impairments; or • Credentialed Adapted PE Teacher
Occupational Therapy	<ul style="list-style-type: none"> • Licensed Occupational Therapist
Physical Therapy	<ul style="list-style-type: none"> • Licensed Physical Therapist
Speech and Language	<ul style="list-style-type: none"> • Credentialed or Licensed Speech/Language Pathologist
Social/Emotional/Behavioral	<ul style="list-style-type: none"> • Board Certified Behavior Analyst; • School Psychologist; • Licensed Educational Psychologist
Visual Acuity/ Developmental Vision	<ul style="list-style-type: none"> • Licensed Ophthalmologist; • Optometrist; or • Credentialed Teacher of the Students with Visual Impairments
Functional Vision	<ul style="list-style-type: none"> • Credentialed Teacher of the Students with Visual Impairments
Vision Perception/ Visual Processing/ Visual-Motor Integration	<ul style="list-style-type: none"> • Credentialed Special Education Teacher • School Psychologist • Licensed Educational Psychologist
Orientation and Mobility	<ul style="list-style-type: none"> • Credentialed Teacher of Students with Visual Impairments
Transition to Adult Life	<ul style="list-style-type: none"> • Credentialed Special Education Teacher • School Psychologist • Transition Expert

Guidelines for School Based/Classroom Observations

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 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 and 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
- 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.. Unresolved concerns shall be referred to Butte County SELPA.

- To the maximum extent possible, agencies are asked to obtain required observational information from opportunities outside the school program and school environment.

Prohibition on Mandatory Medication

State and local educational agency personnel are prohibited, pursuant to paragraph (25) of subsection (a) of Section 1412 of Title 20 of the United States Code, from requiring an individual with exceptional needs to obtain a prescription for a medication that is a substance covered by the Controlled Substances Act (21 USC Sec. 801 et seq.) as a condition of attending school, receiving an assessment under subsection (a) or (c) of Section 1414 of Title 20 of the United States Code or receiving services under this part.

This does not create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a pupil's academic and functional performance, his/her behavior in the class or school or the need for assessment for special education and related services under paragraph (3) of subsection (a) of Section 1412 of Title 20 of the United States Code. Legal References: EC 56040.5, 34 CFR 300.174.

As the law clearly states, school personnel are prohibited from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services. This requirement was included in the 2004 re-authorization of the IDEA because of rumors and complaints about schools pressuring parents to put their children with attention deficit hyperactivity disorder (ADHD) on medication.

Children with ADHD can be challenging to deal with, but schools must be sensitive to the fact that using medication to treat ADHD has been and continues to be a controversial issue. Nothing in this part prohibits teachers or other school personnel from consulting with parents about their child's behavior but the focus needs to be on sharing classroom-based observations regarding the student's academic and functional performance or behavior, or regarding the need for evaluation for special education or related services. When discussing possible interventions, staff should focus on school/home based behavioral interventions and avoid discussions about the use of medication.

CAUTION: In addition to the prohibitions discussed above, if an LEA recommends that a parent get a medical evaluation, the LEA is responsible for the cost of the evaluation.

Section D: Referral to Agencies

- California Children’s Services (CCS)
- Department of Rehabilitation (DOR)
- Regional Center
- State Special Schools – Services
 - Introduction
 - California State Special Schools for the Deaf and the Blind
 - Diagnostic Center of Northern California

CALIFORNIA CHILDREN’S SERVICES (CCS)

Program Description

The California Children’s Services (CCS) program provides diagnostic and treatment services, medical case management, and physical and occupational therapy services to children under age 21 with CCS-eligible medical conditions. Examples of CCS-eligible conditions include, but are not limited to, chronic medical conditions such as cystic fibrosis, hemophilia, cerebral palsy, heart disease, cancer, traumatic injuries, and infectious diseases producing major sequelae. CCS also provides medical therapy services that are delivered at public schools.

The CCS program is administered as a partnership between county health departments and the California Department of Health Care Services (DHCS). Currently, approximately 70 percent of CCS-eligible children are also Medi-Cal eligible. The Medi-Cal program reimburses their care. The cost of care for the other 30 percent of children is split equally between CCS Only and CCS Healthy Families. The cost of care for CCS Only is funded equally between the State and counties. The cost of care for CCS Healthy Families is funded 65 percent federal Title XXI, 17.5 percent State, and 17.5 percent county funds.

In addition, Insurance Code Sections 12693.62, 12693.64 and 12693.66, relating to the California’s Healthy Families Program, provides that the services authorized by the CCS program to treat a Healthy Families plan’s subscriber’s CCS-eligible medical condition are excluded from the plan’s responsibilities. The participating health plan’s responsibility for providing all covered medically necessary health care and case management services changes at the time that CCS eligibility is determined by the CCS program for the plan subscriber. The health plan is still responsible for providing primary care and prevention services not related to the CCS-eligible medical condition to the plan subscriber so long as they are within the Healthy Families program scope of benefits. The health plan also remains responsible for children referred to but not determined to be eligible for the CCS program.

Source: California Department of Health Services webpage link:

<http://www.dhcs.ca.gov/services/ccs/Pages/ProgramOverview.aspx>

Eligibility

A child is eligible for the CCS program if he/she:

- Is under 21 years old;
- Has a health problem that is covered by CCS;
- Is a resident of California;
- And has one of the following:
 - Family income of \$40,000 or less;
 - Out-of-pocket medical expenses expected to be more than 20 percent of family’s adjusted gross income;
 - A need for an evaluation to find out if there is a health problem covered by CCS;
 - Was adopted with a known health problem that is covered by CCS;
 - A need for the Medical Therapy Program; or
 - Medi-Cal, with full benefits

Medical Conditions Covered by CCS

Only certain conditions are covered by CCS. In general, CCS covers medical conditions that are physically disabling or require medical, surgical, or rehabilitative services. There also may be certain criteria that determine if your child's medical condition is eligible.

Listed below are categories of medical conditions that may be covered and **some** examples of each:

- Conditions involving the heart (congenital heart disease)
- Neoplasms (cancers, tumors)
- Disorders of the blood (hemophilia, sickle cell anemia)
- Endocrine, nutritional, and metabolic diseases (thyroid problems, PKU, diabetes)
- Disorders of the genito-urinary system (serious chronic kidney problems)
- Disorders of the gastrointestinal system (chronic inflammatory disease, diseases of the liver)
- Serious birth defects (cleft lip/palate, spina bifida)
- Disorders of the sense organs (hearing loss, glaucoma, cataracts)
- Disorders of the nervous system (cerebral palsy, uncontrolled seizures)
- Disorders of the musculoskeletal system and connective tissues (rheumatoid arthritis, muscular dystrophy)
- Severe disorders of the immune system (HIV infection)
- Disabling conditions or poisonings requiring intensive care or rehabilitation (severe head, brain, or spinal cord injuries, severe burns)
- Complications of premature birth requiring an intensive level of care
- Disorders of the skin and subcutaneous tissue (severe hemangioma)
- Medically handicapping malocclusion (severely crooked teeth)

CCS Services Offered to Children

If you or your child's doctor think that your child might have a CCS-eligible medical condition, CCS may pay for or provide a medical evaluation to find out if your child's condition is covered. If your child is eligible, CCS may pay for or provide those items listed below.

- Treatment, such as doctor services, hospital and surgical care, physical therapy and occupational therapy, laboratory tests, X-rays, orthopedic appliances and medical equipment.
- Medical case management to help get special doctors and care for your child when medically necessary, and referral to other agencies, including public health nursing and regional centers; or a Medical Therapy Program (MTP), which can provide physical therapy and/or occupational therapy in public schools for children who are medically eligible.

Referral Process

When an individual or family is considering a referral to CCS the following steps must occur:

Complete the application form included herein and return it to the local county CCS office;
Give CCS all of the information requested so CCS can determine if the family qualifies;
Apply to Medi-Cal if CCS believes that a family's income qualifies them for the Medi-Cal program.

Note: If a family qualifies for Medi-Cal, the child is also covered by CCS. CCS approves the services; payment is made through Medi-Cal.

Protection of Privacy

California law requires that families applying for services be given information on how CCS protects their privacy.

- CCS must keep this information confidential.
- CCS may share information on the form with authorized staff from other health and welfare programs only when a signed consent form is on file.

By law, information provided to CCS is kept by the program. Individuals have the right to see the application and CCS records concerning themselves or their child by contacting the local county CCS office.

Application to Determine CCS Program Eligibility

The application is to be completed by the parent, legal guardian, or applicant (if age 18 or older, or an emancipated minor) in order to determine if the applicant is eligible for CCS services/ benefits. The term "**applicant**" means the child, individual age 18 or older, or emancipated minor for whom the services are being requested.

Right to Appeal a Decision

Applicants have the right to disagree with decisions made by CCS. This is called an appeal. The appeal process gives the parent/legal guardian or applicant a way to work with the CCS program to find solutions to disagreements.

More Information About CCS:

The toll free number for CCS is: (800) 288-4584.

The local CCS Medical Therapy Unit information is:

Little Chico Creek MTU
Little Chico Creek Elementary School
2090 Amanda Way Chico, CA 95928
(530) 552-3835

Sierra Del Oro CCS MTU
Sierra Del Oro Elementary School
2900 Wyandotte Avenue Oroville, CA 95966
(530) 532-5690

DEPARTMENT OF REHABILITATION

The California Department of Rehabilitation (DOR) provides services and advocacy to assist people with disabilities to live independently, become employed and have equality in the communities in which they live and work. The DOR provides consultation, counseling and vocational rehabilitation, and works with community partners to assist consumers they serve.

The We Can Work Program (WCW) builds partnerships between local educational agencies and the DOR for the purposes of successfully transitioning high school students with disabilities into meaningful employment and/or post-secondary education.

The WorkAbility program offers an opportunity for students with an Individualized Education Program (IEP) to complete their secondary education while also obtaining marketable job skills. WorkAbility provides secondary students with an understanding of job seeking and job keeping skills and is governed by California Education Code Sections 56470-56474. The employability of students improves through occupational class training and on-the-job subsidized or unsubsidized work experience.

The WAI program seeks employers in the business community who will give students with special needs a chance to prove themselves in a competitive integrated employment setting. Local program sites successfully coordinate state and local service providers to offer comprehensive services tailored to local economic, social, and geographic needs and abilities.

The DOR offers the programs listed below.

- Assistive Technology
- Blind Field Services
- Business Enterprises Program
- Client Assistance Program
- Deaf and Hard of Hearing Services
- Disability Access Services
- Independent Living
- Mental Health Cooperative
- Older Individuals Who Are Blind
- Orientation Center for the Blind
- Supported Employment
- Transition Partnership Program
- Traumatic Brain Injury
- Workforce Development

For further information and access to the online application, visit the DOR website at:

<https://www.dor.ca.gov/Home/StudentServices>

The local DOR Chico Branch Office is:
Department of Rehabilitation – Chico Branch
470 Rio Lindo Ave. Ste. 4 Chico, CA 95926
(530) 895-5507

REGIONAL CENTER

Regional Centers are community-based, private, non-profit agencies that help people with a developmental disability obtain services and supports that enhance quality of life and increase independence, inclusion, and normalization.

According to the State of California Department of Developmental Services website (<http://www.dds.ca.gov>), Regional Centers provide:

“A diagnosis and assessment of eligibility and help plan, access, coordinate and monitor the services and supports that are needed because of a developmental disability. Once eligibility is determined, a case manager or service coordinator is assigned to help develop a plan for services, tell you where services are available, and help you get the services. Most services and supports are free regardless of age or income.”

There is a requirement for parents to share the cost of 24-hour out-of-home placements for children under age 18. This share depends on the parents' ability to pay. For further information, see Parental Fee Program. There may also be a co-payment requirement for other selected services. For further information, see Family Cost Participation Program.

Some of the services and supports provided by the regional centers include:

- Information and referral
- Assessment and diagnosis
- Counseling
- Lifelong individualized planning and service coordination
- Purchase of necessary services included in the individual program plan
- Resource development
- Outreach
- Assistance in finding and using community and other resources
- Advocacy for the protection of legal, civil and service rights
- Early intervention services for at risk infants and their families
- Genetic counseling
- Family support
- Planning, placement, and monitoring for 24-hour out-of-home care
- Training and educational opportunities for individuals and families
- Community education about developmental disabilities

The Far Northern Regional Center serves the health districts of a nine-county area (Butte, Shasta, Modoc, Trinity, Glenn, Lassen, Plumas, Tehama, and Siskiyou).

To qualify for these services, a person must live within these nine counties and must be diagnosed with a developmental disability, which means:

- It is a disability originating before the age of 18.
- It is a disability that continues or is expected to continue indefinitely.
- It is a substantially handicapping condition.

AND the developmental disability includes one of the following:

- Intellectual Disability
- Cerebral Palsy
- Autism
- Epilepsy
- Handicapping conditions closely related to mental retardation requiring treatment similar to that required for mentally retarded individuals

The law further states that a developmental disability shall not include conditions that are:

- Solely Psychiatric Disabilities
- Solely Physical Disabilities
- Solely Learning Disabilities

Please have the families of students who meet the above criteria contact the Far Northern Regional Center directly to start the intake process.

Far Northern Regional Center
1377 E Lassen Avenue
Chico, CA 95973
Telephone: (530) 895-8633
Web site: <https://www.farnorthernrc.org/>
Email: info@farnorthernrc.org

STATE SPECIAL SCHOOLS – SERVICES

INTROCUCTION

The California Department of Education (CDE) provides administrative oversight and support to three State Special Schools and three Diagnostic Centers in California.

The following CDE website link provides information on each programs and services.

<http://www.cde.ca.gov/sp/ss/>

Any referral to State Special Schools needs to be coordinated through the District Special Education Office. Further information can be found on the CDE website listed above.

Deaf & Hard of Hearing

Provides technical assistance to and monitoring of local educational agency (LEA) operated programs serving deaf and hard of hearing pupils.

School for the Blind

Provides intensive, disability specific educational services for pupils who are blind, visually impaired or deaf blind, ages 3-22.

Schools for the Deaf

Provides comprehensive educational programs to deaf and hard of hearing pupils, ages 3-22.

Diagnostic Centers

Provides comprehensive assessments to special education students, staff development, and training services to local educational agencies.

CALIFORNIA STATE SCHOOLS FOR THE DEAF AND THE BLIND

What are state special schools?

The State Special Schools and Services Division (SSSSD), under the California Department of Education, provides administrative oversight and support to three State Special Schools and three Diagnostic Centers in California.

- A) California Schools for the Deaf (CSD) in Fremont and Riverside
- B) California School for the Blind (CSB) in Fremont
- C) Diagnostic centers located in Fremont, Fresno, and Los Angeles

Each school provides a comprehensive residential or non-residential educational program composed of academic, non-academic and extracurricular activities. Diagnostic centers identify students' disabilities and offer training to families and local educational agencies at no charge.

Who do state special schools serve and what is the focus of educational programming?

Students are enrolled in either a day school or a residential program, depending upon their individual needs and distance from the schools. About half to two-thirds of the students attending these schools are "residential students," residing in on-site dormitories, while the remaining students attend as "day students."

State special schools use the state curriculum frameworks and adopted/standards-aligned instructional materials as the basis of educational instruction. Independent skills considered important for life after school are built into curriculum and extra-curricular opportunities, including: self-care needs, living needs, community awareness, counseling needs and employment opportunities.

Both schools educate their students among other students who are deaf and/or blind. Adult models that are deaf/blind are available as role models for students. Staff members on campus are fluent in American Sign Language (ASL).

What is the process to enroll?

The general steps for enrollment are:

1. The local district contacts admissions for a referral application. Parent can apply independently of the district, but district would be contacted regarding this parent contact.
2. The district and parent are strongly encouraged to tour the facilities and see the programs offered.
3. The application, including most recent IEP and assessment reports, needs to be reviewed by a District Office of Special Education administrator.
4. The CSD/CSB will schedule a date with the school district to observe your child in their school setting.
5. If appropriate, student is placed for 60-day assessment period. This includes student attending all classes, completion of needed assessment, assessment information

- summarized and IEP held to discuss information.
6. Medical information may be required prior to enrollment.
 7. The student shall bring all district-owned technology to school for use during the assessment period.
 8. If placement is considered appropriate for student, a new IEP is written. The school becomes case manager of the student's individualized education program (IEP) with district being invited to all future meetings.
 9. If at any time during the referral process it is determined that the school does not have an appropriate program for a child, they will notify parent and district and arrange for the student to go home.

Upon completion of the 60-day assessment period and review IEP, the student will either continue attending CSD/CSB or return to his/her district for educational programming. If a student remains at special schools, CSD/CSB become case managers for all IEP paperwork and timelines. Districts remain involved and invited to all meetings. Districts are highly encouraged to participate in meetings, either in person or by phone.

How much do the State Special Schools cost?

The education program for parents is no cost. The majority of a student's education is covered by the State of California with the remainder funded by each student's respective district of residence. If students live on campus in the residential program, the state and the district are responsible for additional residential costs. Extended school year is an additional cost.

If a child is a day student, the school district provides daily transportation. Generally, if a student lives more than one hour or 50 miles away, they are placed as a residential student. All students return home for weekends and holidays.

What are the beliefs of state special schools?

Given full access to communication, deaf children and blind children can achieve at the level of hearing, sighted peers. We believe that deaf children and blind children have fundamental human rights that must never be attenuated. They have the right to:

- Fluently receive and express communication in the manner(s) best suited to their abilities
- Be taught through methods and approaches that are tailored to their strengths
- Learn from deaf or blind role models, including teachers
- Engage in the same curriculum as hearing, sighted peers
- Acquire the practical skills and abilities needed to facilitate interaction with hearing, sighted individuals in environments designed for hearing, sighted people
- Receive the services necessary to help them succeed academically and socially and later, vocationally or professionally
- Have their families become skilled in providing appropriate support.

CALIFORNIA SCHOOLS FOR THE DEAF

The two California State Special Schools for the Deaf (CSD) provide instructional programs to approximately 1,000 students who are deaf. In addition, both schools serve as resources to educational and community service agencies. The School for the Deaf in Fremont was established in San Francisco in 1860, and the School for the Deaf in Riverside opened its doors in 1953. The schools serve students from infancy to age 21.

At the CSD, there is a bilingual-bicultural approach to educating deaf children in a deaf centered culture with strict American Sign Language (ASL) and English instruction. The academic environment fosters mastery of both languages in addition to the California State Standards.

State Special Schools for the Deaf have earned national and international acclaim for the quality of services provided. CSD is accredited by the Western Association of Schools (WASC) and Colleges and the Conference of Educational Administrators Serving the Deaf (CEASD) and teaches to the California State Board of Education Standards, the State Industry Standards, and the Special Education Administrators of County Offices' Alternative Curriculum Standards.

Language Planning is an integral part of CSD's evaluation, goal development and bilingual instructional methods. The primary mode of instruction at CSD is in the natural language for the Deaf (American Sign Language or ASL). It is critical that every child develops strong ASL and English skills necessary for learning, developing critical thinking skills and becoming life-long learners. Language separation is emphasized in order to develop strong language in both ASL and English. There is a focus on supporting students on developing a positive sense of identity that includes competence and skill in living fully as a Deaf person in society, also known as Deaf hood.

Infants (0-3 years)

Infants (birth-3 years) are served on the CSD campus through a variety of SELPAs. The SELPAs financially support the program, and CSD is responsible for the daily operations. CSD teachers make ongoing weekly home visits to the homes of infants to 3 years of age. Home visits provide families with resources, coaching and support to ensure that learning experiences are meaningful, relevant and respectful of each child and family. The children attend the center-based program from 18 months of age to 3 years. The teachers educate parents on language enrichment and attention to the multiple domains of child development. Upon completion of the infant program, some students apply for admission to CSD Preschool and some students return to their local school districts.

Ages 3 to 22

The Early Childhood Education Department serves deaf children and their families from three to six years of age.

Related Services Offered

- Speech and Language (including articulation, auditory training, speech reading, and communication strategies)
- Audiological Services
- Educational Counseling
- Behavior Intervention
- Occupational Therapy
- One-to-One special circumstance professionals are not provided

School Calendar and School Hours

- Typical school calendar, beginning August and ending June
- Hours vary per student grade level
- Extended School Year Services (ESY) services determined per pupil's IEP

Students with Cognitive and/or Behavioral Considerations

The CSD does serve students with behavioral needs, including emotional disturbance (ED), as well as students with intellectual disability (ID). Consideration is given regarding the severity of those needs when determining whether a student may be admitted to the CSD. California Education Code specifies that in order to be eligible to attend the CSD, a student's *primary* disability must be their Deafness. Thus, for example, a student whose primary disability is ED or ID and secondary disability is Deaf may not be eligible to attend CSD. However, the Admissions Review Committee makes each determination on a case-by-case basis. If admitted and if appropriate, a student with cognitive needs may be served in the functional skills-based program at the CSD.

Additional Resources:

Outreach and technical assistance are available to parents, LEAs, consumers, and the business and professional communities for low to no cost.

California School for the Deaf

Admissions Information

(510) 794-3666

<https://www.csdeagles.com/apps/contact/>

CALIFORNIA STATE SCHOOL FOR THE BLIND

The California School for the Blind (CSB) provides educational programs for approximately 100 students who are blind, visually impaired, or deaf-blind in residential or day school programs. Founded in San Francisco in 1860, the school is now recognized as the best in the world for students with visual impairments. Students range from five through twenty-two years of age. Preparation for adult life in the home community is the long-term goal for each student.

Students have the opportunity to develop skills through both the core and expanded core curricula.

Elementary and Middle School Classes

- Academic and/or functional skills-based programs as determined by the IEP team based upon the needs of the individual student.
- Functional skills may include functional academics, daily living skills, social skills, communication skills and adaptive technology skills with a combination of classroom and community-based instruction.

Middle and High School Prep Program – Optional Intensive Year

- Students in this program do not receive course credit on a public school transcript as they are based on the CSB campus and work on disability-specific skills, such as braille reading and writing, abacus instruction, adaptive computer technology, orientation and mobility, personal organization and social skills.
- These programs are intensive short-term placements that focus on the expanded core curriculum and the development of competencies in independent work production, self-advocacy skills, and increasing literacy and math skills.

Middle and High School Programs – Academic Emphasis

- These students are working on a school program that may lead to a high school diploma.
- Students who are working at grade level may attend a portion of the school day in classes in conjunction with the Fremont Unified School District.
- The rest of the school day is on the CSB campus working on disability-specific skills such as braille instruction, speech and language, orientation and mobility, adapted physical education and adaptive technology.
- In addition to related services, students receive enrichment opportunities in music, art and recreation/leisure skill development.

School Calendar and School Hours

- Typical school calendar, beginning August and ending in June
- Hours vary per student grade level
- Extended School Year (ESY) services:
 - Extended School Year Services (ESY) services determined per pupil's IEP; and,
 - The CSB offers additional summer programs to students living in California, but who are not enrolled at CSB.

Related Services Offered

- Orientation and Mobility (O & M)
- Speech and Language
- Counseling
- Adaptive Physical Education (APE)
- Occupational Therapy

Admission Criteria

Applicants may be considered for admission if they can demonstrate they will benefit educationally from the CSB instructional program by showing:

- a) Primary educational needs are related to a severe sensory loss such that it affects the pupil's ability to access the general education or alternative curriculum.
- b) The ability to attend to non-visual stimuli.
- c) The ability to benefit from disability-specific instruction, as demonstrated by the following:
 - 1) Potential to learn Braille, potential to use low vision aids;
 - 2) Potential to benefit from expanded core curriculum instruction; and,
 - 3) Potential to benefit from adaptations to the environment.
- d) The ability to learn simple mobility patterns and routes around campus, as demonstrated by the following:
 - 1) Potential to use the white cane;
 - 2) Potential to orient self in space;
 - 3) Potential to learn own body and body parts; and,
 - 4) Potential to learn concepts of directionality.
- e) Applicant demonstrates the ability to access the general education or alternative curriculum with reasonable accommodations without requiring a fundamental alteration of the educational program of the CSB.

Students with Cognitive and/or Behaviors Considerations

The CSB does serve students with behavioral needs as well as students with cognitive impairments. Consideration is given regarding the severity of those needs when determining whether a student may be admitted to CSB. California Education Code specifies that in order to be eligible to attend CSB, a student's *primary* disability must be their visual impairment. However, the Admissions Review Committee makes each determination on a case-by-case basis. Thus, for example, a student whose primary disability is emotional disturbance and secondary disability is VI may not be eligible to attend CSB. Generally speaking, students whose behaviors can be managed with in-class behavioral supports or simple behavior plans would be able to attend CSB. Students with severe behavioral needs may not be eligible, if these needs are greater than their VI needs. In regards to cognitive impairments, a number of CSB students have cognitive impairments in addition to their visual impairments. Again, the severity of the impairment is taken into account. A student, whose cognitive impairments are so severe that he/she could not care for himself/herself independently or is unable to access instruction, may not be eligible to attend.

Residential students must

- Demonstrate ability to respond independently and appropriately to life-threatening situations.
- Have no history of un-rehabilitated behavior that poses a threat to themselves and/or others, including but not limited to substance abuse, fire-starting, sexually predatory behavior or assault.

Additional Resources

The CSB is a statewide resource, offering assistance and programs to school districts, completely free of charge:

- **Assessment Center:** The CSB Assessment Center is a statewide resource offering expertise in visual impairments and deaf-blindness. The assessment team provides comprehensive assessment for individual students, consultation for family and staff and professional development workshops. Weeklong assessments are conducted at CSB for students who respond to formal testing. Observation and consultation are provided at district schools.
- **Assistive Technology Center:** The Assistive Technology Center provides individual student assessment to determine assistive technology needs. In addition, technical assistance and trainings/staff developments are provided to students, families, and school professionals.
- **Low Vision Clinic:** In partnership with the University of California School of Optometry, the CSB low vision clinic provides low vision exams to individual students at no cost to families or districts. Optical devices are also provided as needed. Consultation and staff development opportunities are offered.

California School for the Blind-Fremont
500 Walnut Avenue
Fremont, CA 94536
(510) 794-3800 - Phone
(510) 794-3813 – Fax
info@csb-cde.ca.gov

DIAGNOSTIC CENTER of NORTHERN CALIFORNIA

The following document was reprinted with permission from the Butte County Special Education Local Plan Area (SELPA).

A pupil may be referred for further assessment and recommendations to the Diagnostic Center (CA Education Code Section 56326). The Diagnostic Center, Fremont is one of three regional assessment centers operated through the State Special Schools and Services Division of the California Department of Education. It provides a variety of assessment and technical assistance services to all Local Education Agencies (LEAs) and Special Education Local Plan Areas (SELPAs) in Northern California. The following is a description of the referral process for assessment services and technical support.

Assessment Services

This section provides information about the target population, eligibility, referral procedures, and types of assessments available.

Target Population

Students who meet the criteria listed below are eligible to be referred for assessment. The Diagnostic Center Admissions and Review Committee (ARC) will determine the actual acceptance of any specific student for services once all of the referral information has been submitted. The Diagnostic Center welcomes the opportunity to discuss potential or actual referrals at any point in the process. Please call (510) 794-2500 for assistance.

Eligibility

To be eligible for Diagnostic Center Services, a student must be:

- Resident of California
- Between the ages of 3 and 22
- Enrolled in a public special education program or eligibility for special education is an issue.
- Demonstrates a complex behavioral and/or learning profile and local assessment services cannot address the student's needs.
- LEA requires additional diagnostic information to assist in defining the most appropriate educational goals and teaching strategies.

***Note:** Students whose primary handicapping condition involves loss of vision or hearing are more appropriately served at the assessment centers located at the California School of the Deaf or the California School of the Blind.*

Referrals

Students must be referred to the Diagnostic Center by their Local Educational Agency (school district or county office of education). Referrals and diagnostic questions may originate with the student's local school site staff and/or family. However, the formal application packet must include the signature of the LEA's special education administrator authorizing the request for Diagnostic Center services.

When an Individualized Education Program (IEP) team is considering a referral to the Diagnostic Center, the following steps should occur:

1. The LEA should insure there is a current multidisciplinary team assessment, which determines the child's present levels of performance in all areas of suspected disability.
2. The IEP team should review the assessment results and develop appropriate IEP goals/objectives and determine appropriate special education services.
3. The IEP team should develop a series of diagnostic questions regarding information sought in further assessment by the Diagnostic Center.
4. A copy of the most recent multidisciplinary assessment report(s), IEP documents and diagnostic questions should be provided to the LEA special education administrator.
5. The special education administrator will contact the parent/guardian regarding completing the appropriate referral forms required by the Diagnostic Center.
6. The special education administrator will facilitate communication between the Diagnostic Center, parent/guardian, and school site IEP team members regarding classroom visitations/observations, assessment schedule, review of findings, and implementation of recommendations.

The application packet may be obtained by contacting the Diagnostic Center and requesting the packet. The initial referral should include the application packet containing both a school district and parent information form. Both of these forms, along with all of the "required information" listed on the front page of the district form, are required. District personnel should complete the "School District" form and the parent/guardian should complete the "Parent Information" form. Incomplete referrals will be returned.

- ❖ Application for Assessment services Authorized by the Director of Special Education
- ❖ Parent Information Form with Release Signatures (Original Copy)
- ❖ Copy of current IEP, including completed signature page
- ❖ Copy of current Psychological/Triennial Reports (reports older than 2.5 years will not be accepted)
- ❖ Educational Assessments
- ❖ Any other reports or information applicable (see School District Form)

Once the completed application is received, the Diagnostic Center's Admission and Review Committee (ARC) will do a comprehensive case review of the referral. This will include phone consultation with the referring administrator or an identified LEA contact person. Following the case review, the decision to accept or reject the referral will be made. If accepted, the committee will also determine whether the diagnostic questions can best be addressed in a Field-Based or Center-Based Assessment (description of the assessments follow). Both the LEA and the parent/guardian will

receive written notification of all Admissions and Review Committee decisions. If the referral is rejected, the reason(s) for the decision will be provided to both the district and the parent/guardian.

Types of Assessment

Based on the reason for referral and diagnostic questions, the center may recommend a field-based assessment or center-based assessment. The Admissions and Review Committee will consult with the LEA if there are questions as to which approach might prove most helpful. However, the final decision rests with the Diagnostic Center Staff.

Field-Based Assessment: This service is for students whose specific diagnostic questions are limited to school, require one or, at the most, two specialists, and will be best addressed in the student's actual learning environment. Diagnostic Center specialist(s) work directly with the student and the local school personnel in the student's classroom or program. Typically, the Diagnostic Staff will meet with the family as part of the assessment planning and process. These assessments usually span one to two days.

Center-Based Assessment: This service is intended for students who have highly complex behavioral and/or learning profiles and assessment needs that cannot be addressed locally. A Center-Based Assessment is conducted at the Diagnostic Center and employs a trans-disciplinary team to assist the LEA in answering specific educationally related diagnostic questions. When appropriate, a Field-Based assessment may be a component. These assessments typically last two to four days but this is an estimate that may be adjusted before or during the assessment process to meet the student's individual needs. The student's parent/guardian is required to accompany the student for the entire assessment. Meals and overnight accommodations at a local hotel are provided to the students and parent(s). Those families living nearby are requested to commute daily and will be provided lunch.

For both Center and Field-Based Assessments, the appropriate specialists and estimated time frame are assigned after a careful case review and in consideration of the student's profile and the questions posed. Specialists may include: school psychologist, education specialist, speech-language pathologist, developmental pediatrician, clinical psychologist, and/or motor specialist.

Assessment Results

Just as the referral procedures are different based on the type of assessment, so are the assessment results.

Field-Based Assessment: During the course of the assessment, LEA staff are provided with practical suggestions in particular focus areas, such as positive behavioral interventions, curricular modifications, communication interventions, motor programming, and so forth.

- An exit conference is held at the district to summarize the results of the process, and may include Diagnostic Center Staff, LEA teachers, specialists, administrators, and the student's parent(s)/guardian(s).
- A written report of the assessment findings and responses to the diagnostic questions posed at the time of referral will follow in several weeks. This report is sent directly to the LEA, which is responsible to distribute it to appropriate staff and to the student's parent(s)/guardian(s).

Center-Based Assessment: During the course of the assessment, parent(s) observe through one-way mirrors and are an integral part of the assessment process. In addition, they may be asked to participate in some assessment procedures.

- Eight weeks after the assessment, a parent/staff conference is held at the Center to share the results and recommendations of the assessment. Parent(s) and LEA staff members are encouraged to invite all interested parties.
- A comprehensive written report is distributed at the conference to parent(s) and the LEA. This report includes assessment findings, provides an integrated picture of the student, and responds to the diagnostic questions posed at the time of referral.

Comprehensive Training and Technical Assistance Projects

Comprehensive Training and Technical Assistance projects are individually designed to meet specific district or school site needs. Projects are designed to provide in-depth content training and multiple levels of follow-up support including demonstration teaching and on-site collaboration. They typically include multiple service days that may be interspersed over a period of weeks or months.

Fees

There are **no charges** to LEAs located within the Diagnostic Center's service area for the assessments or technical assistance. Sponsoring agencies have the responsibility for costs involved with duplication of handout materials, securing the training site, advertising the training, providing refreshments and other like costs for training sessions.

Follow-up Services

Following either a Field or Center-Based assessment, Follow-up Consultation Services of the Diagnostic Center are available to the LEA. These Services are designed specifically to assist in implementing any of the recommendations made by the Center during the assessment process. Follow-up services may be requested in writing or by phone by the LEA once the assessment is complete and the parent/guardian has signed a consent form. This form will be provided by the Center at the conclusion of the assessment process.

In summary, the following chart highlights some of the services that the Diagnostic Center can and cannot provide:

CAN PROVIDE:	CANNOT PROVIDE:
<ul style="list-style-type: none"> • Assessors qualified to conduct individual diagnostic examinations • Objective, individual student assessments addressing identified district and family concerns/questions • Review of relevant records and reports • Communication with both families and district personnel before and after the assessment • Educational recommendations, including related services based on assessment findings • Consultation with student’s physician and other service providers regarding assessment when necessary • Technical assistance in the implementation of Diagnostic Center recommendations • Maintenance of the Diagnostic Center assessment report in perpetuity 	<ul style="list-style-type: none"> • Monitoring or enforcement of Diagnostic Center recommendations • Participation in or enforcement of IEPs • Specific placement recommendations • Assessments in the student’s home • Monitoring of student progress • Mental health services • Assessments that are the legal responsibility of the local school district, including functional behavior and triennial evaluations • Evaluations of programs or teachers • Medical treatment, x-rays, brain scans or prescriptions for medications

Technical Assistance and Training Services

One-Day Workshops

The Diagnostic Center, Northern California offers formal staff development and training to LEA staff and parents on a range of topics based upon both statewide and local needs assessment surveys. In order to provide our training services in an equitable manner to LEAs and SELPAs, many of our workshops are offered regionally on pre-set dates to the four Regional Coordinating Councils (RCCs) in the area. In May of each year, a *Training Services* handout for the next school year is distributed to the RCCs.

Most dates for the next year are booked by June. We also provide a variety of training topics that are available to sponsoring RCCs, SELPAs or LEAs as Diagnostic Center staff availability permits. These trainings are offered on different dates throughout the school year. While scheduled on a “first come, first served” basis, attempts are still made to distribute these limited training equitably.

Section E: Early Childhood Education

- Early Start Services – Introduction
- Policies and Procedures – Birth to Three
- Policies and Procedures – Preschool Through Kindergarten

EARLY START SERVICES – INTRODUCTION

I. Infants or Toddlers with Special Needs

The purpose of this section of the Procedural Manual is to provide supplementary guidance to staff involved in the identification and education of children with disabilities from birth through five years old within Butte County. Unless addressed here, LEA policies and procedures regarding the education of students with disabilities are to be followed.

Families whose infants or toddlers (from birth to three years of age) have a developmental delay or disability or an established risk condition with a high probability of resulting in a delay may be eligible to receive an "Early Start" in California.

Early Start programs are provided by Butte County Office of Education through centralized programs. Early Start services are typically provided for infants and toddlers who have vision, hearing, and orthopedic impairments or a combination of these disabilities. Some of the reasons for referral for Early Start services might include:

- Cognitive (ability to think and learn);
- Fine Motor (small actions, such as grasping an object between the thumb and finger or using lips or tongue to taste objects);
- Gross Motor (larger movements of arms, legs, feet or the entire body when crawling, running, and/or jumping);
- Language & Speech (ability to understand, talk and express self); and,
- Social/Emotional Behavior (ability to relate to others).

Butte County Special Education Local Plan Area (SELPA) has an Early Start interagency agreement with the Far Northern Regional Center (FNRC) and its LEAs collaborate regularly with FNRC to ensure that the infant referrals for evaluation and/or services are properly addressed.

II. Preschool Children with Special Needs

The Butte County Office of Education and Butte County SELPA offer high-quality preschool programs that prepare children, ages 3 through 5 years old, to arrive in kindergarten with the foundational skills necessary for school success. These programs follow the California Early Learning and Development System as outlined in the "California Preschool Program Guidelines," California Department of Education, 2015.

Centralized preschool programs exist in numerous LEAs within Butte County, where a variety of learning experiences are offered for preschool-aged children who require special education services so that they can receive instruction geared to their individual needs. Special day classes, small group instruction, specialized services for young children on the autism spectrum, programs that build mobility skills, and remedial speech and language instruction are among the many services available. Individualized Education Programs (IEPs) are developed for each student by a team that includes the child's parents or caregivers, private school teacher if applicable, and the teachers, specialists, and administrators who will be working with the child.

POLICIES AND PROCEDURES BIRTH THROUGH THREE

I. Purpose

The purpose of this document is to provide supplementary guidance to staff involved in the identification and education of children with disabilities, aged birth to three. Unless addressed in this document, all other District policies and procedures regarding the education of students with disabilities are to be followed.

II. Search and Serve

California Education Code Section (EC §) 56300 reads,

56300. A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education.

All referrals must be made in writing. When a verbal referral is made, educational staff shall offer assistance to the individual in making a request in writing, and shall assist the individual if the individual requests such assistance. (California Code of Regulations [CCR], Title 5, 3021 (a))

There is a need to provide appropriate early intervention services, individually designed for infants and toddlers from birth through three years of age, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays (GC 95001). Regional Centers and local educational agencies (LEAs) shall conduct child-find activities to locate all infants and toddlers who may be eligible for early intervention services (CCR 52040(a)).

Each special education local plan area (SELPA) submitting a local plan to the State Superintendent must have in effect policies, procedures, and programs relating to child-find and referral. (EC §56205) Each district, the county office, or the SELPA shall actively and systematically seek out all individuals with exceptional needs, aged birth through 21 years.

Both Far Norther Regional Center and Butte County SELPA agencies have agreed to coordinate local child find activities including, but not limited to, outreach efforts to hospitals, physicians, child care programs, public health facilities, other social service agencies and other health care providers. FNRC assumes responsibility for contacting hospitals with neonatal intensive care units (through participation in discharge planning rounds when available) to assure that referral linkages with those facilities are maintained. Butte County SELPA agreed to include information about Early Start in its annual child find public notices.

III. Infant/Early Start

This section provides information on initial referral and intake procedures for infants, determining eligibility, the Individualized Family Service Plan, service delivery models, and protections provided under procedural safeguards.

A. Initial Referral and Intake Procedures

The State Department of Developmental Services (DDS) is the lead agency responsible for administration and coordination of the Individuals with Disabilities Education Act (IDEA) Part C grants. Regional Centers are the venue by which DDS fulfills this responsibility. There is an Early Start Interagency Agreement developed with the Butte County SELPA for sharing some responsibilities. The Butte County SELPA is responsible for the provision of Early Start services for children with a primary focus on children with solely low incidence disabilities (i.e. deaf, blind, deaf-blind, orthopedic impairment, and visual impairment).

Anyone who has a concern about an infant's growth or development may make a referral to Butte County SELPA or Butte County Office of Education. The administrator and/or designee assigned to Early Start will complete the Referral Form. The Butte County Office of Education is responsible for providing evaluations and special education services to infants with solely low incidence disabilities. A child with a potential disability other than low incidence will be referred to the Far Northern Regional Center within two days. If Regional Center receives a referral for a student with a low incidence disability, the information will be provided to the LEA within two working days.

Once a referral is accepted, it is given to the LEA administrator and/or designee, who will contact the parent or guardian to set up the initial intake interview. This interview consists of basic questions regarding the child's health, developmental history, diagnosis, if any, strengths, weaknesses, and needs. Discussion of the family's needs and concerns also occurs at this time. The intake coordinator will then determine the team members necessary for the assessment segment of the initial intake procedures. Necessary parental consent forms will be processed in a timely manner. The assessment team will assess the child in the familiar surroundings, such as the home, whenever possible. The evaluation will be completed within 45 days of receiving the referral.

B. Determining Eligibility

The Early Start staff will complete the evaluation, determine need for services via development of an Individualized Family Service Plan (IFSP), and provide services for infants, primarily those with solely low incidence disabilities for whom a need for early intervention services is documented. All infants or toddlers potentially eligible for any Regional Center program will enter through a single point of entry at the Regional Center to determine eligibility for services.

The Regional Center shall determine the assessment tools it will use for determination of eligibility. The results of the testing will determine eligibility of the child for the program. A child being considered for Early Start services available through Regional Center will need to be evaluated in all five developmental areas (cognitive, physical, communication, social/emotional, and adaptive/self-help skills). The Regional Center has different eligibility criteria based on the age of the child:

- For a child 23 months and younger, the developmental delay has to occur in at least one of the five developmental areas at 33% or greater. If a child is found eligible for Early Start prior to 24 months, he/she does not have to meet the new criteria.
- For a child 24-36 months of age, a child must demonstrate a 50% delay in one area or 33% delay in two areas of development.

The children meeting the above criteria will be placed on an IFSP. If the child is not eligible for Early Start, the Regional Center will determine if a referral to Prevention Resource & Referral Services (PRRS) is appropriate, based on the child's risk factors. The PRRS is a no-cost service, through the local Family Resource Center (FRC), that provides enhanced information, resources and referrals to parents and caregivers. FRCs will work with each family to identify strategies to promote child development, provide peer/parent support and share community resources and activities.

PRRS Eligibility Criteria:

- The Regional Center identifies that an infant or toddler has two or more risk factors for developmental disabilities following Early Start intake and evaluation. – OR –
- The Regional Center determines that a toddler between the ages of 24-35 months has a delay in one developmental area of 33 percent through 49 percent at the time of initial referral. – OR –
- The parent of the infant or toddler is a person with a developmental disability.

Regional Centers, with parent consent, will facilitate each family's access to the local Family Resource Centers.

C. Individual Family Service Plan (IFSP)

An IFSP documents and guides the early intervention process for the special education service provider and the family with an infant or toddler between the ages of birth and thirty-six months, who has an identified disability or is at-risk of having disabilities. The IFSP is the vehicle through which effective early intervention is designed and implemented for a child identified as eligible for special education services in accordance with Part C of the IDEA.

Through the IFSP process, family members and service providers will work as a team to plan, implement, and evaluate services tailored to the family's unique concerns, priorities, and resources. The IFSP forms are available through the Regional Center or through the Office of Special Education.

Developing an IFSP

The IFSP is one of the requirements under Part C, IDEA. It is to be developed after a multidisciplinary team completes an evaluation, which determines that a child is eligible for early intervention services.

The following are the federal regulations relating to the IFSP process:

- An IFSP must be developed within 45 calendar days after the written referral is received
- Parents shall be fully informed of their rights and with parental consent, a referral to the local family resource network shall be made.
- Once the multidisciplinary team has established eligibility, arrangements for a convenient meeting date, time, and place must be made. A written notice should be given to the family with enough notice to ensure attendance.
- The meeting must be conducted in the parents' native language or main mode of communication (if the parents request).
- Meeting participants must include parents, service coordinator, person(s) directly involved with evaluation; and may include other family members, advocates, or persons outside of the family, and persons to be providing services.
- The IFSP is to be developed jointly by the family and the appropriate qualified personnel.
- Review of the IFSP must be conducted annually or more frequently if the parents or service providers request an earlier IFSP and concerns/revisions will be addressed as needed.

Content of an IFSP

Specific components to be included on the IFSP form are:

- A statement that describes the infant or toddler's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social and emotional development, and adaptive development.

- With the concurrence of the family, a statement of the family's resources, concerns and priorities related to meeting the special developmental needs of the eligible infant.
- A statement of the major outcomes expected to be achieved for the infant or toddler and the family where services for the family are related to meeting the special developmental needs of the eligible infant or toddler.
- 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 are necessary.
- A statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler as identified through the assessments regarding frequency, intensity, location, duration and the method of services delivery and ways of providing services in the natural environments.
- A statement of the agency responsible for providing the identified services.
- The projected starting date for service delivery and the anticipated duration of the services.
- The title of a service coordinator responsible for the implementation of the plan and coordination with other agencies and persons.
- A statement of "other" services that the child or family needs, but are not required under Part C, and the steps that will be taken to secure those services (listing of non-required services does not mean they must be provided).
- Starting with the initial visiting, and on-going throughout Early Start, the family shall be notified that Early Start services will be provided until the student turns three. The steps to be taken in support of the transition of the toddler to preschool services provided under Part B, or other services as appropriate, shall be discussed and documented.

An excellent resource of online resources and explanation of the Early Start programs can be found on the Department of Developmental Services website at:

<https://dds.ca.gov/services/early-start/>

Part C “Parents’ Rights: *An Early Start Guide for Families* can be accessed on this website.

D. Transition from Part C to Part B

This section provides information about transition from Part C to Part B of the IDEA. This includes transition legal requirements, timelines and responsibilities for transition conference invitation, transition conference, transition plan, notification referral, late referrals, and summer birthdays.

The purpose of the transition IFSP is to allow the Early Start service coordinator and the school district to work together and share responsibility with ensuring services at age three, adhere to regulatory requirements. In order to create a seamless process to support the child and their family transition should be addressed at every IFSP, including the initial meeting. This allows the family to get their questions and concerns addressed in a timely

manner. Part of this discussion should include information regarding Early Start services stopping at age three.

1. The Differences between Part C and Part B

There are major differences between Part C and Part B special education goals, ages, eligibility criteria, services, plans, location of services, service systems, and cost to families as denoted in the table below.

	Part C	Part B
Goal	To support the family to be able to support their children	To support a child’s access to their learning
Ages	Birth – 3 years	3 – 22 years
Eligibility Criteria	Developmental delays and children at risk	Eligibility condition that requires special education
Services	Types and frequency of services may vary both in Parts B & C	
Plans	IFSP	IEP
Location of Services	Natural Environment	Least Restrictive Environment
Service Systems	Multi-agency	Education
Cost to Families	Possible Costs	Free

2. Transition Procedures

For purposes of transition at age three, the IFSP Transition Plan will be implemented as follows:

Age of Child

Activity

At or before:

These activities will be undertaken:

<p>2 years 6 months</p>	<p>Service coordinator notifies parent(s) that transition planning will begin within the next 3 months and that an IFSP transition plan will be developed before the toddler is 2 years 9 months.</p> <p>Parent consent is obtained to include an LEA preschool representative for a transition IFSP conference. The service coordinator notifies the LEA that there will be a transition IFSP conference requiring the attendance of an LEA</p>
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	<p>preschool representative before the toddler is 2 years 9 months. Within 30 days, the family, service coordinator and the LEA agree on a date for the transition IFSP conference.</p>
2 years 9 months	<p>Transition IFSP conference is held with service coordinator, parent (s) and, preschool representatives of LEA If possible this meeting will be combined with the IFSP at 2 years 6 months.</p> <p>At the transition IFSP conference a projected date for conducting the final review(s) of the IFSP and the initial IEP is set including the identification of the persons responsible for convening the IEP/final IFSP review meeting(s). The date(s) is set collaboratively between the LEA staff, the parent(s) and the FNRC service Coordinator. For students with birthdays between June 1 and August 30, IEPs will be held before June 1. Referrals will be made 60 days prior to June 1.</p> <p>Information about assessments that may be needed to determine eligibility for LEA and continued FNRC services are is discussed.</p> <p>Steps to prepare the toddler of changes in service delivery, including steps to help the toddler adjust to, and function in a new setting are discussed.</p> <p>Service coordinator reviews transition material with family including information about community resources for those children who may not qualify for LEA Part B services.</p>
No less than 90 days prior to the third birthday	<p>Referral and notification of children receiving Early Start Part C Services is completed to appropriate LEA provider, and with parent consent includes all pertinent medical and Early Start records. LEA's have 15 days to develop the assessment plan.</p>
2 years 11 months	<p>Prepare for IEP meeting.</p> <p>Eligibility review for continued FNRC services takes place if appropriate.</p> <p>At least 10 days prior to the IEP the LEA confirms the date of the IEP meeting with FNRC. If possible this meeting may be combined with the exit IFSP review. The IEP was tentatively set at the transition IFSP Conference.</p>
By the child's 3 rd birthday	<p>LEA sends evaluation results.</p>

	<p>IEP and final IFSP meetings are held.</p> <p>Note: If the initial IEP meeting is also the final IFSP meeting, adequate time must be given at the IEP meeting to review progress in achieving IFSP outcomes before initiating discussion of the IEP.</p>
<p>Between the ages of 24 and 30 months</p>	<p>Early Start administrator and/or designee will notify the parents that a transition conference will occur no later than 90 days before the child’s third birthday. The conference may occur up to nine months before the child’s third birthday, at the discretion of all parties. The family should be advised that the school district representative will be invited to attend the transition conference and that this meeting is part of a formal IFSP meeting as well.</p>

California has determined that ALL children being serviced in Early Start programs are potentially eligible for district special education and related services at the age of three. Therefore ALL children must be referred to Part B services. The service coordinators are required to make a referral to child’s/family’s school district of residence with or without the parent’s consent. Parents should be informed about the mandatory referral process during transition planning discussions. In the event the family objects to Part B services, they may decline the assessment plan offered by the district.

i. Transition Conference Invitation

The transition conference will occur no later than 90 days before the child’s third birthday. The administrator and/or designee assigned to Early Start will make the arrangements for this meeting. The administrator and/or designee will schedule the meeting, including the time and location on a convenient date for the family and agreed to by the other agencies. A written invitation is sent as soon as possible, but no later than two days before the meeting, to the family, district representative, Early Start providers and other members who the family requests to be present. The family may decline the presence of the district representative at the transition conference. If this occurs, the administrator/designee documents this detail on the transition IFSP.

ii. Transition Conference IFSP Meeting

The purpose of the transition conference is to plan the activities that will occur prior to the child’s third birthday. A transition conference is part of an IFSP meeting so all IFSP requirements must be followed, including a review of information about the child and family current assessment, a review of services, progress toward meeting outcomes, and revision of any outcomes or services as needed. The transition conference must be held no later than 90 days before the child’s third birthday or as

early as nine months before the third birthday, with agreement of all parties. The IFSP team members who are required to attend the meeting include the parent, service coordinator, district representative (with parent approval), service providers, and family members or others invited by the parent. The transition conference is a good opportunity for the district and the family to begin a positive relationship.

iii. Written Transition Plan

The written transition plan that is developed during the transition conference IFSP should include the individual steps and services to be taken to support the smooth transition of the child for service delivery models at age of three. The family's concerns and priorities regarding transition should be discussed and documented, as well as any necessary supporting resources required by the child and family.

iv. Notification Referral

No later than 90 days before the child's third birthday, the administrator and/or designee assigned to Early Start, whether Regional Center or local educational agency (e.g., district or county office of education), must send a referral to the child's and family's school district of residence. The referral must include the child's name and date of birth, and the parent's contact information, including name, address, and phone number. The referral may also include Early Start coordinators name and contact information and the language spoken by the family. The district must maintain documentation of the written referral and has 15 calendar days to develop an assessment plan or prior written notice to deny assessment.

With parent consent, the administrator and/or designee may provide additional identifying information about the child and family, such as the current IFSP, current assessments, and other pertinent information about the child.

The district is required to act on referrals for children who are transitioning from Early Start throughout the year, in order to hold the IEP by the child's third birthday. After receiving the referral and obtaining the parent's consent on the assessment plan, the district is responsible for conducting an evaluation in all areas of suspected disability. The district should also assess the child's strengths and needs to assist the IEP team to develop goals and determine appropriate services designed to ensure a free and appropriate public education (FAPE). Please refer to Evaluation Guidelines for more information regarding assessment procedures under Part B. An initial IEP meeting must be scheduled on or before the child's third birthday. The purpose of the IEP meeting is to review the results of the evaluation and assessment information and to determine if the child meets eligibility for special education services under Part B. All required components of the IEP meeting under Part B of IDEA must be met.

a. Late Referrals

In the case a child is referred to Early Start after they are two years six months of age, the initial IFSP will also serve as the transition conference.

If the child is referred to Early Start between 45 and 90 days prior to their third birthday, the Early Start service coordinator is required to:

- Conduct the initial evaluation and assessment.
- Conduct the initial IFSP meeting, if eligible.
- Develop a transition plan with appropriate transition steps and services.
- Refer the child to the LEA representative of the child's district of residence.

For a child referred to Early Start between one and 44 days prior to the child's third birthday, the Start service coordinator may, but is not required to:

- Conduct the initial evaluation and assessment.
- Conduct the initial IFSP meeting, if eligible.
- Develop a transition plan.
- Provide the LEA representative notification of referral.

Early Start is required to make a referral to the district or assist the family in initiating contact with the district. The district's responsibility for a child referred to Early Start less than 90 days prior to their third birthday includes:

- Ensure that an initial evaluation under Part B is completed.
- Develop an individualized education program (IEP) by the child's third birthday if the child is determined eligible for Part B, even if the 60-day timeline for assessment expired after the child's third birthday.

b. Summer Birthdays

The LEA is responsible for holding an IEP to offer services before the child's third birthday even if the program is not in session; this includes summer breaks, mid-winter breaks, and other non-instructional days. The recommendation is to hold the transition conference early enough to ensure that all evaluations and assessments are complete and the final IFSP and initial IEP meetings are held by the child's third birthday. The date to implement the preschool services will be determined during the IEP meeting as part of the Offer of FAPE. For a child turning three during the summer, extended school year services (ESY) must be considered.

POLICIES AND PROCEDURES PRESCHOOL THROUGH KINDERGARTEN

I. Purpose

The purpose of this document is to provide supplementary guidance to staff involved in the identification and education of children with disabilities, ages birth to five. Unless addressed in this document, all other District policies and procedures regarding the education of students with disabilities are to be followed.

II. Search and Serve Policy

There is a need to provide appropriate early intervention services, individually designed for infants and toddlers from birth through two years of age, who have disabilities or are at risk of having disabilities, to enhance their development and to minimize the potential for developmental delays (Government Code [GC] § 95001). Regional Centers and local education agencies (LEAs) shall conduct child find activities to locate all infants and toddlers who may be eligible for early intervention services (CA Code of Regulations [CCR] § 52040(a)).

Each special education local plan area (SELPA) submitting a local plan to the superintendent must have in effect policies, procedures, and programs relating to child find and referral (CA Education Code [EC] § 56205). Each district, county office, or SELPA shall actively and systematically seek out all individuals with exceptional needs, birth through 21 years.

Butte County SELPA has established the following written policy regarding a continuous child-find system:

- All students, age 0-22, will be screened upon request from parents, staff, district personnel, or representatives of state special schools and public agencies through the early intervention referral process (0-3) or via a Student Success Team (SST) process (3-22). In addition, vision and hearing screening activities shall be completed on all students in accordance with the state guidelines.
- School district testing programs may also furnish information to assist in “Child-Find” procedures. Intervention procedures shall also be followed for individuals not enrolled in public school programs residing within the local jurisdiction, including infants, preschoolers, and private school attendees. Annual notice is published in all of the local newspapers within the SELPA area to inform parents of their rights relative to special education.
- A parent/guardian, teacher, administrator, support personnel, outside agency, or any other persons who have knowledge that an individual may need special education services may initiate referrals for possible placement into special education. Referrals shall be processed in a systematic manner, held in strict confidence, and include written notification to the parent/guardian of their rights. Referrals for potential special education services should be completed on a standard agency form and then directed to the appropriate administrator/program specialist. The administrator or program specialist shall log the referral and begin the screening process.

III. Butte County SELPA Policy

Individuals with exceptional needs between the ages of three and five years, inclusive, who are identified by the District as requiring special education and services, shall be eligible for preschool special education services. Early intervention services (Early Start) for infants and toddlers with disabilities, birth to three, are provided by the District or the Regional Centers based on State policy and interagency agreements. In general, the District provides early intervention services to infants and toddlers whose eligibilities are solely visual, hearing, or orthopedic. The Butte County SELPA Office of Special Education (OSE) will direct the parent to the appropriate agency.

A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:

- Unfamiliarity with the English language;
- Temporary physical disability;
- Social maladjustment; and,
- Environmental, cultural, or economic factors.

When standardized tests are considered invalid for a child between the ages of three and five years, alternative means (e.g., scales, instruments, observations, interviews) shall be used as specified on the assessment plan.

A. Referral

Pursuant to Section 56441.11 of the California Education Code, a preschool child aged three to five years old, qualifies as a child who needs early childhood special education services if the child meets the following criteria:

A child can be referred to a preschool program through (a) the Individualized Family Service Plan (IFSP) process as he/she was previously identified as a child with a disability or (b) as an initial referral as a child with a suspected disability. If a parent requests an assessment or services be provided for a child younger than age three, the parent may call the Preschool Program Specialist. Inform the staff that the call is related to a referral of a child, birth to three.

Child identified prior to preschool entry: Infants previously identified as eligible for special education program services under the Early Start Program will have an Individualized Family Service Plan (IFSP). After the child reaches the age of 30 months (2 years, 6 months), the Early Start staff will meet with the family to discuss transition into a preschool program. When necessary the school psychologist, speech-language pathologist, and nurse will update the child's assessment reports. The child's IFSP and assessment report(s) shall be forwarded to the child's district of residence for review.

The District shall schedule an IEP team meeting with the parent/guardian, administrator, teacher, support personnel (e.g., nurse, speech-language pathologist, school psychologist), and representatives from other agencies as appropriate. The IEP team shall review the child's present levels of performance in relation to Part B, eligibility criteria, and determine the

appropriate general education and/or special education program services to begin when the child turns three years of age.

Child not enrolled in a District general education preschool: A non-enrolled preschool child with a suspected disability may be referred for an initial consideration of need for special education services by contacting the OSE Preschool administrator and/or designee. This person shall log the referral, call the referring party to screen the case, and explain to the parent/guardian the necessary paperwork and steps in processing the referral. If a parent requests an assessment or special education services for a child age three through five, who is not currently enrolled in a District preschool program, they should be instructed to call the preschool administrator and/or designee; and inform the staff that the call is related to the referral of a child age three through five.

Child enrolled in a District preschool program – staff referral: If a staff member believes that a child age three to five may have a disability and require special education and related services, and wishes to request a special education assessment, they must follow District procedures for referring students for a special education assessment. In addition, the staff should complete the following:

1. Observe and document the progress of the child using developmental guidelines;
2. Complete the appropriate skills screening checklist and referral forms; and,
3. Discuss concerns with the parent.

If the parent agrees with requesting a special education assessment, the referring staff will contact the preschool administrator and/or designee and send the referral package containing all the necessary documentation regarding skills screenings and interventions provided to the student prior to the referral.

Upon the receipt of the referral package, the preschool psychologist or preschool administrator and/or designee will review the referral package and conduct or coordinate classroom observations of the student.

Upon the completion of the observations, the preschool psychologist or preschool administrator and/or designee will either present an assessment plan if comprehensive assessments have been determined to be necessary or a prior written notice if deemed otherwise.

Upon completion of the preschool assessment, the preschool administrator and/or designee will coordinate the IEP meeting to review the results of the conducted assessments and to discuss educational placement and services.

Child enrolled in a District preschool program - parent referral: If a parent submits a letter requesting a special education assessment, immediately fax the request to the Preschool Program Specialist or designee.

Note: Expediting the transmission of the request to the office is essential. By law, the District has 15 days to respond to the request for assessment.

If a parent expresses concerns about their child and/or raises the question of whether a special education assessment should be conducted, meet with the parent to discuss their concerns and review teacher observations and assessments.

In addition:

- Together with the parent discuss and complete the appropriate skills screening checklist if the child is three or four years old; and,
- Discuss any accommodations or modifications that can be implemented to meet the student's needs.

If after the above is completed, the parent still wants to have a special education assessment for their child, contact the preschool administrator/designee, who will then forward the request to the appropriate assessor (e.g. School Psychologist, Speech-Language Pathologist, etc.). The assessor will contact the parent present the assessment plan.

Upon the completion of the assessment, the preschool administrator and/or designee will coordinate the Individualized Education Program (IEP) meeting to review the results of the conducted assessments and to discuss educational placement and services.

B. Assessment

All initial assessments of three and four year old children are the responsibility of the preschool administrator and/or designee. Once a child starts receiving special education services, any reassessments are the responsibility of the school of attendance or program in which the child is enrolled, with the exception of the District still being responsible for any assessments requested at any of the Child Development Centers or Head Start Sites as outlined in the Interagency Agreement.

Note: Prior to transitioning a student with an IEP from a preschool program to kindergarten or first grade, an appropriate reassessment of the student must be conducted to determine if the student is still eligible for special education and related services (See *Transition From Preschool to Kindergarten* section on the following page).

C. Individualized Education Program (IEP)

The IEP team shall discuss the child's present levels of performance, determine eligibility, develop goals (and objectives as appropriate), and determine the appropriate general education and/or special education program services to meet the child's needs. There are things that need to be considered for each IEP as decisions are made about the continuum of preschool program options.

The preschool administrator and/or designee coordinates initial IEP meetings. Annual reviews are the responsibility of the school of attendance or program in which the student is enrolled. IEPs for preschool students follow the procedures and guidelines in the IEP, in addition:

1. Present levels of performance and annual goals and objectives are to be aligned to the preschool curriculum;

2. Services are to be designed to meet the unique needs of the child and his/her family; and,
3. Services may be provided in an individual or small group setting.

Services must include, when appropriate:

- Observing and monitoring the child's behavior and development in his/her environment;
- Presenting activities that are developmentally appropriate for the child and are specially designed, based on the child's needs, to enhance the child's development;
- Interacting and consulting with family members, preschool teachers, and other service providers, as needed, to demonstrate appropriate activities;
- Assisting parents to seek and coordinate other services in their community that may be provided to the child by various agencies;
- Providing opportunities for the child to participate in play and explorative activities, to develop self-esteem and pre-academic skills;
- Providing access to developmentally appropriate equipment and specialized materials; and,
- Providing related services, including parent counseling and training to help parents understand the special needs of their child and their child's development.

Note: The duration of group services may not exceed four hours per day unless determined otherwise by the IEP team.

D. Transition from Preschool to Kindergarten

An IEP transition meeting must be held before a student, currently receiving special education and services, transitions to kindergarten. At the meeting, the IEP team must judge whether the child is still eligible for special education and services.

To prepare for the transitional IEP meeting, the following should be implemented: Classroom staff reviews the current classroom assessments, portfolios, and anecdotal records.

School based team comprised of the site administrator/designee, special and general education teacher, psychologist, and other related service providers meet and review child's file as well as current assessments. The IEP team will make recommendations pertaining to the continued eligibility of the student for special education and services; the team's recommendations are recorded.

Based on the recommendations, the team determines if additional assessments are needed. If the team determines that additional assessments are needed, an assessment plan must be developed and provided to the parent.

Note: If the team recommends that the student may no longer be eligible for special education, an assessment plan must be developed. Refer to Evaluations section. If the team does not believe that further assessments are needed, the parent must be informed in writing in the form of a prior written notice with an accompanying copy of the *Parents' Rights and Procedural Safeguards* and be advised that if they disagree they may request assessments.

All staff responsible for the student's IEP goals must determine the student's present levels of performance, at a minimum, in all four curricular domains. Suggested goals for the coming year should be developed for discussion at the IEP meeting.

Representatives from the student's receiving school of residence are invited to the IEP meeting.

At the IEP meeting, the IEP team identifies and documents any means of monitoring to ensure continued success of the student if the team recommends less intensive programs or services for the student.

If the IEP team determines that the student will exit from special education, it completes the present levels of performance and documents the student's learning style. This information is to be provided to the student's kindergarten teacher.

IV. Program and Service Options

In the March 19, 2013, via the EdLawConnect Blog, Geneva Englebrecht and Adam Newman of Atkinson, Andelson, Loya, Rudd, and Romo provided guidance regarding placement for students receiving special education services. For clarification, the Office of Special Education Policy (OSEP) has advised that the obligation to provide a FAPE at no cost to the parents applies to preschoolers as well as school-age students. Both California and federal law require LEAs to provide a free appropriate public education (FAPE) to preschool-age students eligible for special education.

Whether preschool, and/or a specific preschool setting, would be appropriate for an eligible preschool-age student must be determined individually based on the unique needs of each student and is an individualized determination based on the unique educational needs of the particular student. The term "unique educational needs" is to be broadly construed and includes the student's academic, social, emotional, communicative, physical, and vocational needs. (*Los Angeles Unified Sch. Dist.*, 109 LRP 76217) While an LEA is not required by law to provide general education preschool, the fact that an LEA does not offer a public, general-education preschool program does not relieve it of its duty to provide a FAPE to preschoolers with disabilities.

Depending on the child's "unique educational needs," the IEP team will determine the appropriate educational services that support the needs and development of the child. Opportunities are offered for the child to participate in age-appropriate activities in the least-restrictive educational setting. Placement decisions are driven by the child's strengths and needs. Below is the continuum of services available for preschool students requiring special education.

A. Continuum of Services

- Inclusive Community Setting (related services)
- The child's regular environment (including home)
- Public preschool program with Related Services
- Public preschool program with Consult and Collaboration from the Special Education Staff
- Public preschool program with Specialized Academic Instruction

- Separate preschool program with Specialized Academic Instruction for majority of day
- Separate preschool program with Specialized Academic Instruction for majority of day utilizing alternate curriculum standards
- State Special School (Referral only if not already accepted by school)
- Nonpublic School
- Alternative Education
- Home/Hospital
- Instruction in non-classroom setting

The Office of Special Education Programs (OSEP) has taken the position that the obligation to provide interaction with typically developing students may be satisfied by considering alternative methods for meeting the student's unique needs in the Least Restrictive Environment (LRE).

The "California Preschool Guidelines" (CA Department of Education, Sacramento, 2015) encompasses specific guidelines on *Including Children with Disabilities or Other Special Needs*. This section provides a broad framework for early childhood educators to help in planning and implementing quality educational programs for the inclusion of young children with disabilities or other special needs in regular early care and education settings. Program approaches for children who do not qualify for special educational services but who have such special needs as behavioral or communication issues are also offered in these Guidelines

Another excellent resource is the "Inclusion Works! – Creating Child Care Programs That Promote Belonging for Children with Special Needs (CA Department of Education, Sacramento, 2009). This publication is dedicated to describing inclusive, supportive environments that teach children about differences and about respecting and valuing other people regardless of ability.

Inclusive programs provide many benefits: peer modeling, a higher-level curriculum, and improvement in language usage, social skills and overall development. However, it is important to remember that a special education case carrier needs to be designated to work with the general education teacher and that any supportive services need to be provided by trained special education personnel. Sometimes instructional assistants provide services to such children under the direction of a credentialed special education teacher.

The IEP team determines the specific services that are appropriate for each preschool child eligible for special education. The options are listed below.

Infant/Preschool Transition Services

The purpose of these services is to facilitate the transition to Preschool Services. For children leaving early intervention services, this process begins at the transition Individualized Family Service Plan (IFSP) meeting when the child is at least 2 years 6 months of age. A facilitator acts, usually the preschool administrator and/or designee, as a bridge linking the IDEA, Part C, (Infant) systems inclusive of the Regional Center and other Early Intervention Programs contracted with the School District, with the Part B (Preschool) systems while also providing support and information to the individual family. The services offered to both Part C enrolled children and new referrals include family conferences, preschool program visits, resources on the assessment and IEP process, and ongoing updates during the transition period.

Related Services

The full range of related services is available to eligible preschool children.

Nonpublic School or Nonpublic Agency

For preschool students eligible to receive special education services, who are parentally placed in private schools, the District offers a public school placement and appropriate related services in the IEP meeting, along with the offer of Free Appropriate Public Education. If the parent prefers a private school placement, the District presents an Individualized Service Plan outlining the limitations of services that the District can provide to the student in a private school setting.

V. State Requirements for Preschool

A. Desired Results System

The California Department of Education (CDE), Early Education and Support Division (EESD), has established the Desired Results (DR) System to improve program quality in early care and education programs across the state. The DR system meets both statewide assessment and required federal reporting for preschool special education. All preschool-age children (3, 4, and 5 year olds not enrolled in kindergarten) in California who have an IEP participate in the DR system. It was developed based on six Desired Results – four (4) for children and two (2) for their families.

- DR1: Children are personally and socially competent
- DR2: Children are effective learners
- DR3: Children show physical and motor competence
- DR4: Children are safe and healthy
- DR5: Families support their child's learning and development
- DR6: Families achieve their goals

The DR system consists of the following components:

1. Desired Results Developmental Profile© (DRDP©) assessment instruments
2. Desired Results Parent Survey
3. Environment Rating Scales (ERS)
4. Program Self Evaluation

1. Desired Results Developmental Profile© (2015) A Developmental Continuum from Early Infancy up to Kindergarten Entry:

The DRDP© (2010) assessment instruments are designed for teachers to observe, document, and reflect on the learning, development, and progress of children, birth through 12 years of age, who are enrolled in early care and education programs and before-and after-school programs. The assessment results are intended to be used by the teacher to plan curriculum for individual children and groups of children and to guide continuous program improvement.

- 2. Desired Results Parent Survey:** The Parent Survey is designed to assist programs in gathering information from families about (1) the family members' satisfaction with their child's program and how it supports the child's learning and development; and (2) family members' perceptions of their progress toward reaching the two Desired Results identified for families. Families in the program are asked to complete the Parent Survey once a year and return it to their classroom. Families complete this survey anonymously to ensure that their opinions and concerns are kept confidential.
- 3. Environment Rating Scales (ERS):** The ERS are used to measure the quality of the program environment (e.g., child-teacher interactions, children's interactions and activities, use of language, health and safety practices, space, and materials). The ERS are required instruments for yearly program self-evaluation and used for the reviews conducted CDE/EESD program staff.
- 4. Program Self Evaluation:** The Program Self Evaluation addresses: family and community involvement; governance and administration; funding; standards, assessment, and accountability; staffing and professional growth; opportunity and equal educational access; and approaches to teaching and learning. Program quality is assessed annually through the required self-evaluation and the reviews conducted by CDE/EESD program staff.

Desired Results also support special educators, administrators, and families in implementing the CDE's assessment system for preschool-age children with Individualized Education Programs (IEPs) by:

- Assuring the inclusion of preschool children with IEPs in the Desired Results Assessment System.
- Refining the Desired Results Developmental Profile access (DRDP access)
- Aligning the DRDP access with the other DRDP instruments, California's Preschool Learning Foundations, and Preschool Curriculum Frameworks.
- Refining and managing the statewide DRDP data collection system for preschool special education (SEDRS) to meet federal requirements.
- Providing useful information and reports to programs about DRDP assessment results.
- Providing resources and activities to assist California's preschool special education community to understand, use, and benefit from this statewide system.

B. State Performance Plan Indicators

The Special Education Annual Performance Measures are a series of focused monitoring reports required by the Individuals with Disabilities Education Improvement Act (IDEA) and compiled by the CDE. Two specific indicators measure preschool performance as outlined below.

Indicator 6 – Preschool Least Restrictive Environment – The percent of children aged 3 through 5 with IEPs attending a: (a) Regular early childhood program and receiving a majority of special education and related services in the regular program; (b) Separate special education class, separate school or residential facility.

Providing preschool student services in the least restrictive environment (LRE) is so crucial that both Federal and State monitor the settings in which preschool services are made available. The following language is the definition of State Performance Indicator 6: Percent of preschool children with IEPs who received special education and related services in settings with typically developing peers (i.e., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings). Because this is monitored, it is critical for each LEA to offer a full continuum of services to meet the unique needs of each individual student in the least restrictive environment.

Indicator 7 – Preschool Assessment – Percent of preschool children, aged 3 through 5, with IEPs who demonstrate improved: (a) positive social-emotional skills (including personal relationships); (b) acquisition and use of knowledge and skills (including early language/communication and early literacy); and, (c) use of appropriate behaviors to meet their needs.

Federal and State monitor participation of preschool students in state assessments. The Desired Results Developmental Profile© (DRDP) is the assessment used in California through a CDE contract with the Napa County Office of Education.

The Desired Results Access Project will soon allow LEAs and the CDE to generate reports through the DR Access system to assist them with progress monitoring and compliance monitoring activities.

C. Preschool to Kindergarten Transition Planning – Reassessment Requirement

This section addresses two key topics: (1) legal framework and (2) procedures.

Legal Reference

Preschool children identified as individuals with exceptional needs must be reassessed prior to transitioning from a preschool program to kindergarten or first grade. (EC 56445) This reassessment may include: standardized testing, criterion referenced testing, observation and/or review of records (34CFR §300.305). Personnel providing special education services to the child are responsible for completing this reassessment and writing a summary report. Whenever possible, the IEP team review meeting should include a kindergarten or first grade teacher to ensure that a smooth transition occurs. After enrolling in kindergarten or first grade, the child's progress should be monitored to determine the need for continuing special education program services. (EC §56445(c)).

Section F: Individualized Education Program (IEP) Manual

- Introduction (SEIS Teacher Level User Manual)
- “The IEP Process in a Nutshell”
- IEP Contents
- Parents’ Rights and Procedural Safeguards
- Parents’ Rights to be Informed in Their Primary Language or Other Mode
- IEP Meeting Timeline Requirements
- IEP Team Members
- IEP Implementation
- Revocation of or Refusal to Provide Consent to the IEP (see also Section L)
- Scheduling the IEP Meeting
- Notifying Participants of the IEP Meeting
- Preparing for the IEP Meeting
 - Introduction
 - IEP Preparation Checklist (Prior to the IEP Meeting)
 - Sample IEP Agendas (Initial and Annual)
 - Collaborative IEP Meeting Map – Facilitator Guidelines
- Conducting an IEP Meeting
 - Overview, Preparation, Beginning the Meeting
 - Improving Communication During an IEP Meeting
 - Completing the IEP Meeting
- Writing Compliant IEPs
- Determining Eligibility
 - Present Levels of Performance
 - Summary of Performance
- Annual Goals and Objectives
- Special Factors
- Standards, Accommodations, and Modifications
- Services and Supports
- Placement in the Least Restrictive Environment
- Offer of a Free Appropriate Public Education (FAPE)

INTRODUCTION

The purpose of this section is to provide specific information on all components of the Individualized Education Program (IEP) process.

The development of an IEP is a team process that follows a series of steps for success. Although the forms are standardized, the completion of these forms is individualized to each student. Following the procedures outlined guides IEP team members to decisions regarding the provision of a Free Appropriate Public Education (FAPE) for each student with a disability in the least restrictive environment (LRE).

The completed IEP is also used to track compliance and collect other data required for CALPADS reporting. For these reasons, it is vital that procedures be carefully adhered to throughout all levels of the recording and data collection processes.

It is the intent of the legislature that the IEP team meetings are non-adversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs.

A local educational agency (LEA) shall initiate and conduct meetings for the purpose of developing, reviewing, and revising the IEP of each individual with exceptional needs (California Education Code Section 56340).

SEIS Teacher Level User Manual

As of the time of publication of this manual, the Butte County LEAs uses the Special Education Information System (SEIS) as a tool to complete and track the IEP process, and the data compiled from SEIS is used for compliance monitoring activities by the California Department of Education. Therefore, proficiency in this system and attention to detail is of the utmost importance to each LEA.

The most current “Teacher Level Training” Manual can be accessed on www.beta.seis.org in the Help Center Tab under “Training Materials” and “Teacher Materials.”

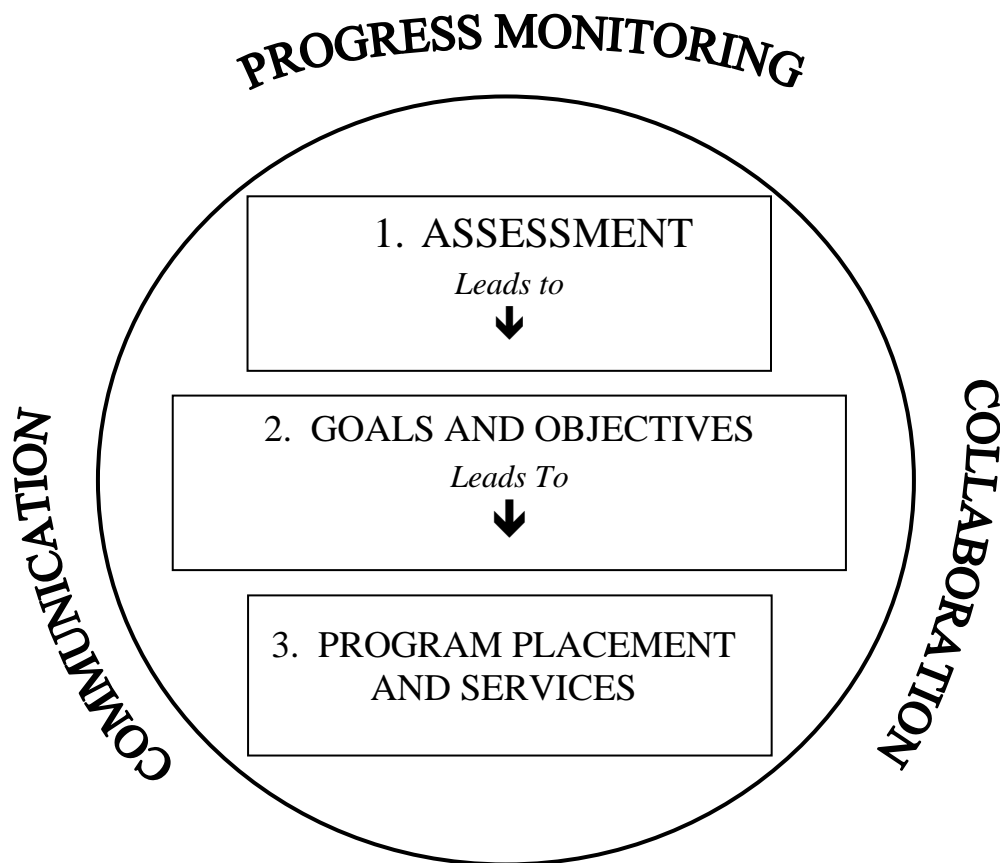
Specific applicable sections may include, but not limited to:

- Initial CALPADS Affirm – Students transferring from a non-SEIS district/SELPA
- Managing the Electronic Record
- Teacher Level Training
- The Amendment Process
- CALPADS
- Best Practices

The I.E.P. Process

In a nutshell

The I.E.P. is primarily conducted in three parts: assessment, drafting of goals and objectives, and determination of services and placement. The more thorough the assessment is, the better able the I.E.P. Team will be able to identify areas of strength and weakness, and the more meaningful the goals and objectives will be in addressing gaps in learning, communication, and behavior. Based on the particular goals, then, services and placement can be more appropriately discussed. With an incomplete assessment, all other areas of the I.E.P. are affected. All I.E.P.'s are strengthened with communication, collaboration, and progress monitoring data.



IEP CONTENTS

The IEP will document: (Reference: 34 Code of Federal Regulations, Section 300.320)

- Whether the student is eligible for special education and related services.
- The student's present levels of educational performance and educational needs.
- The goals, and if applicable objectives, the student is to achieve.
- The special education, related services, accommodations, supplementary aides and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil in order to advance appropriately toward attaining the annual goals, to be involved and progress in general curriculum and to participate in extracurricular and other nonacademic activities.
- The appropriate placement for the student.
- The extent to which the pupil will be able to participate in regular educational programs.
- The individual accommodations/modifications to be used in the administration of state or district wide assessments in order for the pupil to participate in the assessment.
- The projected date for initiation and the anticipated duration of the programs and services included in the IEP.
- Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.
- A statement of how the pupil's parents or guardian will be regularly informed, at least as often as parents and guardian of non-disabled students, on their progress toward annual goals.

When appropriate the IEP shall also include:

- Prevocational career education for pupils in kindergarten and grades 1 to 6, inclusive, or pupils of comparable chronological age.
- Vocational education, career education or work experience education, or any combination thereof, in preparation for remunerative employment, including independent living skill training for pupils in grades 7 to 12, inclusive, or comparable chronological age.
- For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation.
- For pupils whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

- Extended school year services when needed, as determined by the IEP team.
- Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day.
- For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines.
- At least one year before the pupil reaches the age of 18, a statement that the pupil has been informed that his or her rights will transfer to the pupil upon reaching the age of 18.
- Other factors as identified in the federal regulation 34 C.F.R. 300.320 (LRE).

The IEP shall show a direct relationship between the present levels of performance, the goals and objectives, and the specific educational services to be provided. (CCR 3040 include) 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 IEP. (CCR 3042 (a))

The IEP team shall document its rationale for placement other than the pupil's school and classroom in which the pupil would otherwise attend if the pupil were not handicapped. The documentation shall indicate why the pupil's handicap prevents his or her needs from being met in a less restrictive environment even with the use of supplementary aids and services. (CCR 3042(b))

The IEP is:

- An agreement, that the student will receive what is specified in the IEP.
- A communication vehicle enabling parents, professionals and, if appropriate, the student as equal participants to make joint informed decisions.
- A compliance tool enabling school districts and State and Federal agencies to determine whether a student is receiving a free appropriate public education by assessing whether the IEP meets legal requirements and whether the student is receiving what is documented on the IEP.
- A student-centered management tool used to ensure that a student is provided needed special education and related services.
- A commitment of resources necessary to enable the student to receive needed special education and related services.

The IEP is not:

- A guarantee that a student will achieve the goals and objectives set forth in their IEP.
- A vehicle for specifying the methodologies teachers and other professionals will use with the student.

PARENTS' RIGHTS AND PROCEDURAL SAFEGUARDS

All special education staff members and administrators should be familiar with the content of the *Parents' Rights and Procedural Safeguards*. Prior to beginning an IEP team meeting, offer the parent/guardian a copy and inquire as to whether or not the parent/guardian needs an explanation. The notice should have been sent with the Assessment Plan or provided to the parent at least once per school year. Many parents will waive this process because they are already familiar with their rights. Notate in the IEP TEAM MEETING NOTES that a copy of the "Parents' Rights" were offered and the IEP Team either reviewed the "Parents' Rights" or the parents waived the review of the "Parents' Rights."

Parent(s) or guardian(s) of a pupil who has been referred for initial assessment, or of a pupil already identified as an individual with exceptional needs, shall be afforded an opportunity to participate in meetings with respect to the identification, assessment, and educational placement of the pupil and with respect to the provision of a free appropriate public education, as provided in Section (§) 300.501 of Title 34 of the Code of Federal Regulations. (Education Code [EC] § 56304)

Parent(s) or guardian(s) shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings, relating to eligibility for special education and related services, recommendations, and program planning (EC § 56341.1).

Parent(s), guardian(s) or District shall have the right to electronically record the proceedings of IEP meetings on an audio tape recorder. Parent(s), guardian(s) or District shall notify the members of the IEP team of their intent to record the meeting at least 24 hours prior to the meeting. If the District initiates the notice of intent to audiotape record a meeting and the parent objects or refuses to attend the meeting because it will be tape recorded, then the meeting shall not be recorded on an audio tape recorder. (EC § 56341.1 (f)(1))

Parent(s) or guardian(s) has the right to request an individualized education program team meeting to review an individualized education program, which shall be held within 30 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request. (EC § 56343.5)

The Butte County SELPA has adopted for use the State of California's Parents' Rights and Procedural Safeguards form. Any member of the IEP Team or community may download the most current version of this document at the Butte County SELPA webpage at www.buttecountyselpa.org

PARENTS' RIGHT TO BE INFORMED IN THEIR PRIMARY LANGUAGE OR OTHER MODE OF COMMUNICATION

II. Purpose

These guidelines have been developed to provide assistance to school staff in order to enable parents of students with disabilities to be informed participants in educational decision-making concerning their child. Consistent with Federal and State laws, and District policy, these guidelines are designed to ensure that forms, notices and guides relating to the special education or Section 504 process are provided to parents in their primary language and that assessment reports are made available in the parent's primary language or mode of communication, if requested, and feasible to do so. And that when requested, parents are provided the appropriate oral, written, sign, and other translation services in their primary language or mode of communication at meetings about their child.

III. Butte County SELPA Policy

A. District Forms, Notices, and Procedural Guides

Parents of students with disabilities must be fully informed, in the form of communication they best use, about their child's identification, evaluation, placement, instruction, and reevaluation for special education services. To meet this intent, district forms, notices and procedural guides designed for parents of students with disabilities are to be developed to be readable and linguistically appropriate to the extent required by law. Generally, the forms, notices, and procedural guides referenced by this policy include special education forms, notices, and guides; Section 504 forms and notices, Student Success Team forms, and disciplinary notices and forms.

So that parents are able to obtain further clarification of the content on any form, notice, or printed information provided to them, all such documents are to include a contact number(s) for parents to call if they have questions.

B. Reasonable Accommodations

Parents are entitled to reasonable accommodations to enable their participation in their child's educational decision-making. In addition to reasonable accommodations for individuals with disabilities such as special communication needs or mobility assistance, accommodations which the parent may request in order to understand the content of forms and to participate in related meetings with school staff also include oral interpretation and written translation into the parent's primary language.

IV. Translation Requirements and Availability of Forms

A. Special Education Forms

Standard LEA forms, notices, and procedural guides are available. Forms are also available in Spanish. The principal/designee at each school should maintain an adequate supply of these forms to annually address the linguistic needs of parents.

B. Assessment Report

Parents are entitled to request a written translation of an assessment report in order to be fully informed regarding the assessment results. Such requests are to be met, unless clearly not feasible to do so. If the school does not have the necessary resources to provide the written translation, the principal/designee may request a written translation by the District Office of Special Education (OSEP).

C. IEP Documentation of Parent Request for Written Translation

The IEP team must document that the parent has been informed of his/her right to a written translation of the IEP by checking the appropriate box. If the parent requests a written translation of the IEP, the IEP team must check the box that indicates that request and specify the language requested. School staff is responsible to provide the written translation, unless clearly not feasible to do so.

D. Section 504 Program Information and Forms

Section 504 Program information and forms and notices are available in Spanish to schools through the LEA Pupil Services Departments.

E. School Responsibility

The school is responsible to provide appropriate written linguistic translations of any of these documents in the language requested by the parent as long as it is feasible to do so. If the school does not have the translation resources necessary to address the parent's request, the school may request such services from the LEA's translators or the Pupil Services Department. SELPA will make translation services available as needed.

F. Student Success Team Forms and Notice of Disciplinary Action Forms

Student Success Team forms and forms regarding disciplinary actions provided to parents should be translated into the primary language of the parents if the parents make such a request. If the parents do not request a written translation, or it is not feasible to provide a written translation, school staff should review the content of the documents orally in the primary language of the parents so that they are fully informed.

G. Parent Contact Information

School should identify school staff, including a telephone number that parents may contact if they are in need of further assistance regarding the content of any forms, notices, or procedural guides sent or given to them by school staff. Standard District forms include, in most cases, District contact information for parents to receive further information regarding the content of the documents; however, schools should also include school staff contact information for parents on these documents.

IEP MEETING TIMELINE REQUIREMENTS

The IEP meetings must be held within the following timelines:

- 60 calendar days from receiving the signed assessment plan from the parent.

Note: The 60 calendar days does not include days between the student’s regular school sessions or terms, or days of school vacation in excess of five school days. If a signed assessment plan is received within 20 days of the end of the regular school year, the IEP must be held within 30 days after the beginning of the subsequent regular school year. If the signed assessment plan is received during the student’s school vacation the IEP meeting must be held within 60 days of the date that school reconvenes.

- 30 calendar days from the time that a parent or teacher requests a meeting to review the IEP.

Note: *The 30 calendar days do not include days between the student’s school sessions or terms or days of school vacation that are in excess of five school days.*

- Within one calendar year from the date of the previous IEP meeting.
- 30 calendar days from the enrollment of a student with an IEP from another school district.
- For students age 16 and older (or at the discretion at the IEP team), the IEP meeting must also include the development of an Individual Transition Plan (ITP). An ITP must be developed prior to the student’s sixteenth (16th) birthday, to ensure that an ITP is in place when he/she reaches age sixteen (16).

For reference purposes, a printable timelines chart entitle “Special Education Timelines in California” is provided courtesy of Fagen, Friedman & Fulfrost, LLP, at:

https://www.f3law.com/downloads/F3-015_Special%20Education%20Timelines%20in%20CA.pdf

IEP TEAM MEMBERS

Who Are the Required IEP Team Members?

Federal and state laws require certain individuals to attend every IEP team meeting. Specifically, they are:

- (a) The parent(s)/guardian(s) of the child with a disability;
- (b) At least one general education teacher *of the child*, if the child is or may be participating in the general education environment;
- (c) At least one special education teacher, or where appropriate, not less than one special education provider *of the child*;
- (d) A representative of the school district who is knowledgeable about the availability of the resources of the district, is qualified to provide or supervise the provision of special education services and is knowledgeable about the general education curriculum;
- (e) An individual who can interpret the instructional implications of evaluation results;
- (f) At the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (g) Whenever appropriate, the child with a disability.

(20 U.S.C. § 1414 (d)(1)(B); California Education Code Sections 56341(b)(1)-(7).)

California (CA) Education Code (EC) Section (§) 56341 (b) (1)-(7) reads:

- (b) The individualized education program team shall include all of the following:
 - (A) One or both of the pupil's parents, a representative selected by a parent, or both, in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).
 - (A) Not less than one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the local educational agency to represent the others.

The regular education teacher of an individual with exceptional needs, to the extent appropriate, shall participate in the development, review, and revision of the pupil's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the pupil, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the pupil, consistent with Section 1414(d)(1)(A)(i)(IV) of Title 20 of the United States Code.

- (A) Not less than one special education teacher of the pupil, or if appropriate, not less than one special education provider of the pupil.

- (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 education 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 described in paragraphs (2) to (6), inclusive.
 - (6) At the discretion of the parent, guardian, or the local educational agency, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the individualized education program team.
 - (7) Whenever appropriate, the individual with exceptional needs.
- (c) In accordance with Sections 300.308 and 300.310 of Title 34 of the Code of Federal Regulations, for a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. In accordance with Section 300.310 of Title 34 of the Code of Federal Regulations, at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.
- (d) (1) The local educational agency shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the individual and the needed transition services for the individual to assist the individual in reaching those goals under subparagraphs (A) and (B) of paragraph (8) of subdivision (a) of Section 56345.
- (2) If the individual with exceptional needs does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the individual's preferences and interests are considered.
- (3) To the extent appropriate, with the consent of the parents or an individual with exceptional needs who has reached the age of majority, in implementing the requirements of paragraph (1), the local educational agency shall invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services.
- (e) A local educational agency may designate another local educational agency member of the individualized education program team to serve also as the representative required pursuant to paragraph (4) of subdivision (b) if the requirements of subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b) are met.

- (f) A member of the individualized education program team described in paragraphs (2) to (5), inclusive, of subdivision (b) shall not be required to attend an individualized education program meeting, in whole or in part, if the parent of the individual with exceptional needs and the local educational agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- (g) A member of the individualized education program team described in subdivision (f) may be excused from attending an individualized education program 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, in writing, and the local educational agency consent to the excusal after conferring with the member.
 - (2) The member submits, in writing, to the parent and the individualized education program team input into the development of the individualized education program prior to the meeting.
- (h) A parent's agreement under subdivision (f) and consent under subdivision (g) shall be in writing.
- (i) In the case of a child who was previously served under Chapter 4.4 (commencing with Section 56425), Early Education for Individuals with Exceptional Needs, or the California Early Intervention Services Act under Title 14 (commencing with Section 95000) of the Government Code, an invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities service coordinator, as described in Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other representatives of the early education or early intervention system to assist with the smooth transition of services.

What are the Student's Rights at the IEP When Appointed a Surrogate Parent?

Assembly Bill 2015 modified the student's attendance at IEP meetings to the following: "an individual with exceptional needs who is over the age of 10 and who has been removed from home pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code, shall be included in the team if a surrogate parent has been appointed to represent his or her interests." The new language further states that the provision "does not apply if a qualified medical or mental health professional who is treating the individual provides the district, special education local plan area, or county office with a written opinion that participation on the team would be harmful to the individual."

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.

What is the Definition of a Parent?

The definition of the parent is outlined below.

Code of Federal Regulations (CFR), Title 34, § 300.30 reads,

(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.(2) If a judicial decree or order identifies a specific person or persons under paragraphs (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 U.S.C.1401(23))

California Education Code § 56028 reads,

(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.

What is the Role of the District Representative?

A district representative is a required member of the IEP team, who is authorized to act on behalf of the district. This individual, by signing the IEP, commits the school district resources listed in the IEP.

A district representative must be:

- a. **Qualified** to provide or supervise the provision of specially designed instruction to meet the unique needs of individuals with exceptional needs;
- b. **Knowledgeable** about both the general curriculum and district resources; and
- c. **Authorized** to make decisions on behalf of the district and commit its resources, ensuring that whatever services are set out in the IEP actually will be provided.
(20 U.S.C. § 1414 (d)(1)(B); CA EC § 56341(b)(4).)

Generally, principals and assistant principals serve as the district's representative. However, non-administrators can do so if he/she meets the above criteria. In *Student v. Los Angeles Unified School District*, OAH No. 2006120625, the Administrative Law Judge ("ALJ") ruled that a former teacher and educational specialist was qualified to serve as a district representative because of her experience and knowledge in both general and special education, her familiarity with the curriculum of each, and her knowledge of the resources of the district. Accordingly, this non-administrator was deemed a proper district representative.

If a district representative is not present or the representative does not meet the above criteria, an ALJ could find a district committed a procedural violation. As in *Parents v. Temecula Valley Unified School District and the Keegan Academy*, OAH No. 2012080512, the ALJ ruled that the district failed to provide a district representative who was knowledgeable with appropriate authority to offer programming and to commit funds at the IEP meetings. In this case, the representative lacked the required knowledge because she was not familiar with any services or programs available at other district school sites. Furthermore, she lacked the required authority because she had no independent authority to commit any of district's services.

(Source: Hatch & Cesario Attorneys-At-Law – April 2, 2015 Memorandum to Santa Maria Bonita School District)

Should the District Representative Attend the Entire IEP Team Meeting?

Yes, because in order to offer a student a free appropriate public education (“FAPE”) through committing district resources, he or she needs to be present to listen to the discussions regarding a student’s unique needs and goals. A district representative’s presence during the entire IEP team meeting is vital as evidenced in a recent ruling in *Parent v. Spencer Valley Elementary School, OAH Case No. 2014030842*. Here, the ALJ found that because the district representative appeared at the IEP team meeting five hours after it started and shortly before making the district’s offer of FAPE, the district committed a procedural violation.

Practically speaking, a district representative, especially when he or she is the principal, is in the best position to ensure the required IEP team members (e.g., the site’s teachers, services providers and school psychologist) attend and participate during the meeting. A principal’s presence can also provide the team with the leadership necessary to gain consensus as well as provide support for those team members who may be nervous or apprehensive about the meeting.

In conclusion, federal and state laws require that the district adhere to specific requirements in comprising an IEP team and in choosing an appropriate district representative whose presence is required at an IEP team meeting. The law also clearly defines the role of a school psychologist on an IEP team and states members may wear multiple hats at the meeting so long as they can fulfill the obligations of each role. Failure by the district to meet these requirements may result in a denial of FAPE.

(Source: Hatch & Cesario Attorneys-At-Law – April 2, 2015 Memorandum to Santa Maria Bonita School District)

Is There Provision for Excusal from the IEP Meeting?

Yes, Assembly Bill 1663 (2007) amended CA EC § 56341 to bring state law in conformance to IDEA Act of 2004. A significant change involved identification when IEP team meeting attendance is not necessary and authorizes excusals from IEP meetings. CA EC § 56341(f-h) reads,

(f) A member of the individualized education program team described in paragraphs (2) to (5), inclusive, of subdivision (b) shall not be required to attend an individualized education program meeting, in whole or in part, if the parent of the individual with exceptional needs and the local educational agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(g) A member of the individualized education program team described in subdivision (f) may be excused from attending an individualized education program 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, in writing, and the local educational agency consent to the excusal after conferring with the member; and
- (2) The member submits, in writing, to the parent and the individualized education program team input into the development of the individualized education program prior to the meeting.

(h) A parent's agreement under subdivision (f) and consent under subdivision (g) shall be in writing.

Is there an Alternative Means for the IEP Meeting Participation?

Yes, Assembly Bill 1663 amended CA EC § 56341.5 (g) to allow the parent of a child with a disability and an LEA to agree using alternative means of meeting participation, such as conference calls. CA EC § 56341.5 (g) reads,

(g) Pursuant to Section 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the local educational agency shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls, and consistent with Section 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the local educational agency may agree to use alternative means of meeting participation.

Can an IEP Meeting be conducted without Parent Participation?

Yes, Assembly Bill 1663 amended CA EC § 56341.5 (h) to allow the LEA to conduct an IEP meeting if parents are not available to participate. CA EC § 56341.5 (h) reads,

- (i) A meeting may be conducted without a parent or guardian in attendance if the local educational agency is unable to convince the parent or guardian that he or she should attend. In this event, the local educational agency shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, such as:
 - (1) Detailed records of telephone calls made or attempted and the results of those calls.
 - (2) Copies of correspondence sent to the parents or guardians and any responses received.
 - (3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

IEP IMPLEMENTATION

- Upon completion of the IEP it shall be implemented as soon as possible following the team meeting. (California Code of Regulations [CCR] Section (§) 3040(a))
- A copy of the IEP shall be provided to the parents at no cost, and a copy of the IEP shall be provided in the primary language at the request of the parent. (CCR § 3040(b))
- Prior to the placement of the individual with exceptional needs, the LEA shall ensure that the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education and/or related services to the individual have access to the pupil's IEP, are knowledgeable of the content of the IEP, and are informed of his or her specific responsibilities related to implementing a pupil's IEP and the specific accommodations, modifications and supports that shall be provided for the pupil in accordance with the IEP. (CA Education Code (EC) § 56347)
- The Local Educational Agency (LEA) must make reasonable efforts to obtain informed consent from the parent of the child before providing special education and related services to the child. If the parent of the child fails to respond or refuses to consent to the initiation of services, the LEA shall not provide special education and related services to the child. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide the consent, the LEA shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child and the LEA shall not be required to convene an IEP team meeting or develop an IEP for the child for the special education and related services for which the LEA requests consent. (CA EC § 56346)
- If the parent or guardian of a child who is an individual with exceptional needs refuses all services in the IEP after having consented to those services in the past, the LEA shall follow the revocation of consent procedures described elsewhere. See below in this section.
- If the parent of the child consents in writing to the receipt of special education and related services for the child but does not consent to all of the components of the IEP, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the child.

Revocation of Consent Procedures

When a parent or legal guardian indicates an interest in revocation of consent to special education and related services, the IEP Team should consider the request carefully.

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 public agency:

- May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 *CFR* Section 300.503 before ceasing such services
- May not use the procedures in subpart E of Part 300 34 *CFR* (including the mediation procedures under 34 *CFR* Section 300.506 or the due process procedures under 34 *CFR* Sections 300.507 through 300.516) 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 a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services
- Is not required to convene an IEP team meeting or develop an IEP under 34 *CFR* Sections 300.320 and 300.324 for the child for further provision of special education and related services

Please note, in accordance with 34 *CFR* Section 300.9 (c)(3), that if the parents revoke consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency 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.

The District should respond to the request in writing and may provide a date to cease providing special education and related services. After this date, student will receive no special education or related services and will not be considered a student with a disability.

While the LEA may consider the request seriously, ultimately it is directed by the federal law, the Individuals with Disabilities Education Act (IDEA), and its regulations to respond to the written revocation request in a timely manner.

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 prior written notice provided at this meeting.

By revocation of consent for student to receive special education and related services, these protections and procedural safeguards are then no longer applicable to the student. The services and accommodations/modifications that are agreed to in the student's most current IEP will no longer be available to the student. Additionally, the student will not have any of the procedural safeguards available to students with disabilities in the event of any disciplinary action.

The LEA's special education administrator should always be consulted when revocation has been requested. Typically, best practice is for the LEA to not disagree with its own IEP recommendations and request an additional meeting to listen to the parent concerns and make sure the parent is fully informed of the loss of services, accommodations, modifications, and other protections under IDEA due to the requested revocation. If the nature of the student's IEP services are so necessary to their ability to access and receive any educational benefit, the LEA may opt to enter into due process to show that its offer of FAPE was appropriate. This is a rare and extreme example, but the LEA should take action if staff feel strongly that student harm would occur without the enumerated IEP services being provided.

If they still wish to revoke consent, they should understand student may again be considered for special education and related services in the future.

Provision for Making Changes to IEP After Meeting Was Held

A change to CA EC § 56341, through AB 1663 amendments, includes new provisions when making changes to a student's IEP after the annual IEP meeting was held.

The CA EC § 56380.1 (a-c) reads,

(a) In making changes to a pupil's individualized education program after the annual individualized education program meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree, pursuant to Section 1414(d)(3)(D) of Title 20 of the United States Code, not to convene an individualized education program 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 pupil's existing individualized education program.

(b) Changes to the individualized education program may be made, in accordance with Section 1414(d)(3)(F) of Title 20 of the United States Code and Section 300.324(a)(6) of Title 34 of the Code of Federal Regulations, either by the entire individualized education program team at an individualized education program team meeting, or, as provided in subdivision (a), by amending the individualized education program rather than by redrafting the entire individualized education program. Upon request, a parent shall be provided with a revised copy of the individualized education program with the amendments incorporated.

(c) If changes are made to the pupil's individualized educational program, in accordance with subdivisions (a) and (b), the local educational agency shall ensure that the pupil's individualized education program team is informed of those changes as required by Section 300.324(a)(4)(ii) of Title 34 of the Code of Federal Regulations.

SCHEDULING THE IEP MEETING

- Since it is essential that IEP team members are available and prepared for the meeting and that meetings are held within required timelines, effective scheduling is important. In most schools the vast majority of IEP meetings held each year are annual reviews.
- In many schools, IEP meetings tend to cluster at the beginning or end of the school year, making school-wide planning even more important. Annual IEP reviews that also include an assessment of the student require longer range scheduling, since assessment plans must be prepared, assessments conducted and reports written before the IEP meeting can be held. Since the amount of time needed for an effective IEP meeting will vary depending on the needs of the student, be sure to schedule an appropriate period of time to discuss and resolve all relevant issues. Scheduling of IEP meetings back to back for short periods is not considered to be reasonable.

Note: *Administrators should verify the availability of all staff members (including interpreters) who are required to attend before scheduling the meeting.*

- While schools must provide parents a written notification of the IEP meeting, efforts should be made to schedule or reschedule the IEP meeting at an agreeable time and location to facilitate their participation. All such efforts must be documented. In order to encourage parent participation, school staff must explore alternative types of participation, such as individual or conference calls, if a parent is unable to attend a meeting.

PREPARING FOR THE IEP MEETING INTRODUCTION

To ensure that an effective efficient meeting is achieved, the following actions prior to the IEP meeting will be of assistance. All IEP team members have valuable information to contribute regarding a student's learning challenges, the school environment, and the student's strengths and needs. As a team, the IEP team is collaborating to establish goals, services and priorities for the classroom. Students are an important part of the IEP.

The Case Manager should:

1. Assure that all staff participating in the IEP meeting receives the Notification and are able to attend.
2. Clarify the roles and responsibilities of staff, including that they:
 - Arrive at the IEP meeting on time and prepared.
 - Remain at the IEP meeting as long as is required.
 - Remain attentive to the proceedings throughout the duration of the IEP meeting.
 - Not delegate their responsibility to another staff member unless that person is in a

- position to assume responsibility as defined in the *IEP Team Members* Section.
 - Ensure that the cultural and linguistic needs of parents and students are addressed.
3. Review the assessment plan to ensure that all assessment reports have been completed and translated (unless clearly not feasible to do so), and a copy of the report has been provided to the parents if they requested a copy. Prepare copies of the assessment reports for the meeting.
 4. Have staff review and summarize assessment reports including independent educational evaluations, if they are available prior to the meeting. **Note:** *It is appropriate for staff to come prepared to IEP meetings with findings and recommendations related to components of the IEP. These may or may not be written on an IEP form and may be revised during the discussion at the IEP meeting. It must, however, be made clear to parents at the onset of the meeting that such findings and recommendations are provided for review and discussion. At no time should a complete draft IEP be prepared prior to the meeting.*
 5. Have staff review and summarize information on the student's present level of educational performance, including the components listed below:
 - Report cards
 - Class tests
 - Standards-referenced assessments, such as performance-based assessments and curriculum-based assessments
 - Anecdotal records
 - Behavioral reports
 - Checklists and other teacher evaluations
 - Reports from related services providers
 - Reports from providers of transition services
 - Performance on State and District wide assessments
 - Observations from parents, including how the student applies what he/she has learned at school in the home and community
 - Comments from the student
 6. Have staff review the student's current IEP/ITP, unless it is an initial IEP meeting, to determine the progress the student has made in meeting IEP/ITP goals and objectives and prepare recommended changes. **Note:** *While decisions at an IEP meeting are to be based on input from all participants, participants may come prepared with draft recommendations for team consideration.*
 7. Have staff review the student's current accommodations, modifications, services and placement and develop recommendations for consideration at the IEP meeting. **Note:** *If the IEP meeting is the annual review prior to the three-year review, staff, including those staff who may have responsibility for conducting the three-year reassessment, should discuss in order to make a recommendation as to whether a formal three-year reevaluation may be necessary.*

Factors to consider and discuss may include:

- Whether the student is appropriately identified;
 - Is achieving IEP goals and objectives; and,
 - Is functioning appropriately within the school setting.
8. If there is need for assistive technology, guidance information will be sought from the appropriate agency that will provide the service. Butte County SELPA provides for this service in Butte County.
 9. If there is a belief that the forthcoming IEP meeting may lead to a placement in a location outside the student's school of residence or the school the student is currently attending, a District Office of Special Education representative should be in attendance at the IEP meeting. For small districts, this may mean a program specialist's assistance with a meeting.
 10. If there is a belief that the forthcoming IEP meeting may lead to a recommendation for a related service that is currently not available at the school or within the school district, the appropriate related service agency needs be contacted in advance (perhaps BCOE or SELPA should receive an invitation). **Note:** *At least one year before the student turns eighteen (18), he/she must be notified that he/she will be assuming the rights, roles, responsibilities, and communication previously held by his/her parents.*
 11. Encourage parents to prepare for the IEP meeting by:
 - Reviewing their child's current IEP;
 - Visiting their child's current placement;
 - Reviewing reports of their child's progress;
 - Preparing observations of their child's performance at home and in the community;
 - Meeting with their child's teacher(s); and,
 - Noting progress they are pleased with or concerned about.

Note: *Interpreting services may need to be provided by an interpreter. The school site administrator is responsible for arranging needed interpretation.*

12. Make arrangements for any equipment (including someone knowledgeable about its operation), materials, forms, etc. that may be needed at the meeting. **Note:** *Parents intending to audiotape the meeting must give notice to the administrator/designee at least twenty-four (24) hours prior to the meeting. If the parent tape records the meeting, the school may also tape record the meeting without parental approval. If district staff wants to audio tape record the meeting, parents must be notified in writing at least 24 hours prior to the meeting and informed that they have the right to refuse to have the meeting recorded. Any recording made by the District is subject to the Federal Family Educational Rights and Privacy Act (FERPA) and thus subject to confidentiality requirements.*
13. Case Manager will be responsible for writing the IEP during the meeting.

14. Reserve a meeting room that has privacy, sufficient space and seating for the entire IEP meeting participants, and can support the effective use of any equipment that may be required.
15. Prepare an agenda for the meeting.
16. Case Manager may chair the IEP meeting. It may not be the psychologist or related services provider if they are also presenting a report at this meeting.
17. If the student will be participating in the IEP meeting, have the school staff responsible for the delivery of special education services provide the student with instruction on his/her role, rights and procedural safeguards. The instruction should be based on the information contained in the *Parents' Rights and Procedural Safeguards*.

IEP SAMPLE AGENDA

Initial Individualized Education Program (IEP) Agenda

Name of Student	Date
I. Introductions of Team Members	
II. Review Purpose of the Meeting	
III. Review of Parents' Rights and Procedural Safeguards	
IV. Student's Strengths	
V. Parent Concerns	
VI. Review of Assessments	
VII. Determination of Eligibility	
VIII. Development of Goals and Objectives	
IX. Review the Full Continuum of Special Education Services	
X. Review the Offer of a Free and Appropriate Public Education (FAPE): Placement (Classroom Type) and Services (Type/Frequency) to Meet Proposed Goals	
XI. Additional Supports Needed to Meet Goals (Accommodations and Modifications, Behavior Intervention Plan, Transition Plan, and/or English Language Learner [ELL] page)	
XII. Review remaining IEP pages (Information, Special Factors, Statewide Assessments)	
XIII. Review of Notes Taken During Meeting	
XIV. Signatures	

COLLABORATIVE IEP MEETING

The collaborative IEP meeting is different from a traditional IEP meeting because a collaborative meeting involves essential elements of pre- and post-meeting tasks as well as guiding principles. There are a number of different approaches to collaborative IEPs. A very effective model was developed by the West End Special Education Local Plan Area, “Collaborative IEP Meeting Map – Facilitator Guidelines.” Three parts to the guidelines include: (1) pre-meeting preparation; (2) meeting procedures and process; and, (3) meeting follow-up. The template is printed below and on the following page.

Collaborative Individualized Education Program (IEP) Meeting Map Facilitator Guidelines		
Names of Team Members:		
Date:	Time:	Location:
Pre-Meeting Preparation: Part 1		
<p>Clarify meeting outcomes and support team members by:</p> <ul style="list-style-type: none"> • Coordinating a date with each participant • Sending out a meeting invitation* (consider sending an invitation with pictures of the child or a personalized cover letter) • Providing parent participation material/resources <ul style="list-style-type: none"> ○ Draft copy of the IEP ○ Evidence of student’s progress ○ Survey • Making a home visit if possible • Reviewing multidisciplinary assessment results with parents and a small group (not just one person) and responding to questions (never do this at the IEP, especially with initial assessment) • Share assessment results with teachers, and related service providers • Review previous goals with parents and staff (for triennial)* • Providing a phone call to assist parent’s expectations about the meeting* • Prepare social story for child for IEP • Providing a simple overview of the IEP process for parents and students, e.g., a pamphlet, including overview of agencies and roles of participants • Making a classroom/placement visitations as needed 	<ul style="list-style-type: none"> • Drafting goals and objectives with parent’s input* • With pre-meetings, have an agenda • Have a pre-meeting with staff- clarifying meeting outcomes with all team members- prepare teachers and convey expectation that all team members must stay for the entire meeting • Start comments page to document what has already been done with the family • Identifying and charting meeting outcomes/procedures • Planning and charting the agenda* • Providing simple refreshments • Plan and prepare the meeting environment* <ul style="list-style-type: none"> ○ Soft music ○ Food that is easy to eat- fruit, string cheese . . . ○ Water ○ Normal sized chairs ○ Use u-shape, semi-circle, sunburst, or oval with space at front for projection, charts, visual aids • Call parent the day before to see if there’s anything they’d like to add to the agenda* • Confirm that all IEP team members will be in attendance by calling the day before- give input regarding their role • Set up technology prior to the meeting and test it. Have as little technology on the table as possible • Stand prior to parent entering room, welcome the family and invite them to sit where they’d like 	
*Minimum for Annual IEP		

Collaborative IEP Meeting Map Meeting Procedures/Process: Part 2 Meeting Agenda					
Build Team Partnerships	Summarize Assessment Results	Determine Eligibility	Develop Goals and Benchmarks	Determine Placement Support and Services	Summarize Meeting Actions and Commitments
<ul style="list-style-type: none"> • Greet family & escort them into the room • Start meeting with a video of the child • Provide personal & functional introductions • Provide welcome & clarifying meeting outcomes & expectations • Review agenda • Review procedural safeguards • Review posted norms • Review accuracy of demographic information 	<ul style="list-style-type: none"> • Provide simple overview of assessment that focuses on what the child can do • Identify areas of need that are to be addressed • Review any independent evaluations the parent has obtained 	<ul style="list-style-type: none"> • Make links between assessment results & eligibility • Verify there are no other areas of suspected disability that should be evaluated • Describe how the student's disability affects his/her educational performance 	<ul style="list-style-type: none"> • Ask the parent to identify their priorities for the student's education • Check for each identified need, there is goal • Review goals & objectives • Make necessary changes 	<ul style="list-style-type: none"> • Determine need for services • Describe the purpose of each service • Share the ways the child will participate in the services • Review Special Education Factors: Behavioral needs, AT, Low Incidence, ELL • Discuss ESY- Identify type of service, duration, frequency, & location 	<ul style="list-style-type: none"> • Establish necessary timelines/persons responsible • Review meeting notes/comments • Obtain signatures • Provide opportunities for group to process meeting effectiveness • If a student is going through a transition document activities to support the transition • If there is no agreement, identify the next steps for reaching resolution • Distribute copies of the IEP • Complete follow up action plan • Gift to parent, e.g., a plant
Meeting Follow-Up: Part 3					
<ul style="list-style-type: none"> • Distribute copies of the IEP to staff not in attendance • Meet with general education and special education staff to review modifications • Ask staff what support is needed for implementation • Provide staff with demonstrations/models of how to implement IEP as needed • Provide reminders on follow-up tasks 			<ul style="list-style-type: none"> • Write note to parent • Provide follow-up call to parent Meet again with general education and special education staff to review modifications and accommodations • Follow up phone calls with school personnel • Thank you notes to team members 		

Source: West End Special Education Local Plan Area (WESELPA) – Permission granted to use this document by WESELPA.

CONDUCTING AN IEP MEETING

I. OVERVIEW

The manner in which an IEP meeting is conducted will often determine its effectiveness. The process should ensure that:

- The focus is on the student;
- All participants are viewed as having important contributions;
- Communication is in a style and manner that is both understandable and respectful;
- The needs for the student guide the decisions made at the meeting;
- The decisions made can and will be implemented; and,
- Policy requirements are met.

Resource information is provided at the end of this section to facilitate the conducting of IEP meetings in the most effective way possible.

a. PREPARATION

A few minutes of preparation can increase the effectiveness of the meeting. Prior contact with the parent greatly reduces parental anxiety (and your own). Preparation includes the following:

- Establishing the objectives of the meeting;
- Reviewing cumulative data on the student;
- Preparing graphically-presented data;
- Discussing/reviewing case with assessment team members;
- Preparing draft IEP papers;
- Recording available assessment data; and,
- Preparing draft IEP goals and objectives, if required.

III. BEGINNING THE MEETING

1. Begin the meeting on time.
2. If the meeting is being audio recorded, verify that a request for audio recording was made 24 hours in advance. If not, contact the District Special Education Office on how to proceed.
3. State the purpose of the meeting. For example: “We are here to review the progress that (student’s name) has made since the last IEP meeting and to plan (his/her) education program for the next year.” Or, “We are here to determine whether (student’s name) has a disability and requires special education and related services and if so, determine what services will meet (his/her) needs.”
4. Introduce the participants and their roles.

Note: *When an interpreter is used, clarify the roles and turn-taking procedures that are to be used (e.g., allow time for all communication to be completely interpreted; speak to the participants, not the interpreter; take turns talking; consecutive interpretation will occur; or other specific interpreting procedures to be used).*

5. Distribute the proposed agenda and ask the participants if there are any additions or modifications. Changes should only be accepted if they are consistent with the purpose(s) of the IEP meeting.
6. Ask the parents if they received a copy of the *Parents' Rights and Procedural Safeguards*.
If they have not received them, provide copies and review the content with the parents.

Note: *If the student has reached the age of 18, and has not been determined to be incompetent under State law, all rights, roles, responsibilities and communication described in this Manual pertaining to the parent are conveyed to the student.*

7. Solicit and answer questions from the parents regarding their rights. Invite them to ask questions at any time during the meeting.
8. Ask the parents if they understand their rights as described and/or if they need them explained. If they do not understand, their rights need to be summarized again until they understand them.
9. Tell the team that the proceedings and results are confidential and will be used for educational purposes only.
10. Tell the parents that their concerns and information they provide regarding the student will be considered in reviewing and/or developing the IEP. This may be achieved by asking questions throughout the meeting, such as: "Tell us about your child," and "From your perspective, what can we do to help?" Throughout the meeting invite parent comments and questions and check for parent understanding. Take every opportunity to make the parents part of the team.

Note: *If a parent concern or question cannot be addressed at the meeting, specify a time in the future when the parent will receive a response and who will follow-up.*

11. Give the parents an opportunity to share their expectations and vision of the student's future, including short-term and long-term issues. The parent may describe his/her understanding of the student's strengths and personal interests, as well as concerns regarding the student's educational performance, physical development, social and emotional development, independent functioning, vocational considerations and participation in the home and community. If the IEP team is developing or reviewing an ITP, discuss the student's post school goals, interests and preferences.

Note: *Pertinent information provided by the parent or student must be summarized on*

the IEP/ITP on the appropriate sections.

12. Beginning with the year that the student enters high school and each annual review thereafter, discuss the District's requirements for graduation with a diploma or certificate of completion, including:
 - a. The difference between a diploma and certificate of completion.
 - b. The right of students to continue their education until age 22, unless they have earned a diploma.
 - c. The courses that must be satisfactorily completed for a diploma.
 - d. The exams that must be passed for a diploma.
 - e. The criteria for receiving a certificate of completion.

V. IMPROVING COMMUNICATION DURING AN IEP MEETING

The information included in this section was adapted from a combination of materials prepared by the West End SELPA in San Bernardino County and the Riverside County SELPA.

Phrases to Avoid in IEP Meetings

- I don't teach that.
- I only offer reading instruction in the morning.
- Your child will not fit into any of my groups.
- I have already taught that skill to my students, and I won't get to it again this year.
- Students are not allowed to use calculators in my math class.
- No one is allowed to bring a tape recorder/lap top computer into my classroom.
- If he can't copy notes from the board/overhead, he will just have to get the notes from another student on his own time.
- If your child doesn't already have these skills, she will never make it in this class.
- I can't allow students to work with partners. They will never do their own work.
- Whenever I pair kids up they are always whispering to each other during class. I can't allow that kind of noise to go on.
- It wouldn't be fair to all the other students.
- My class is full. Your child will have to be placed in another program.
- We don't offer a program for your child at this school. They will have to go to another school.
- We aren't trained to handle health or medical procedures at this school.

- The high functioning students in my program will probably make fun of your child.
- I don't have any training/background in that area.
- Your child just doesn't fit into my program.
- My class is made up of very low functioning kids. Your child just wouldn't fit in.

Phrases to Promote Communication by Directing Focus to the Issues and Interests

- Could you be specific?
- What was most important about that (conversation, incident)?
- So, how does that tie into the current situation?
- What is the most important aspect of this dispute?
- What needs to be different?
- Who are the important parties?
- Is there a trust issue here?
- What else is important about that?
- You've had to talk to many people about this . . .
- What would you like to see happen?
- You've spent a lot of energy on this. What would you like to see happen?
- Please explain how your child requires the service that you are requesting.

Phrases to Validate Feelings

- I can see how important this is to you.
- This has really been hard on you. Tell me more about . . .
- You seem very angry. What happened?
- And then what . . .
- And next . . .
- You felt _____ when that happened.
- You sound frustrated. Please go on.
- This has been disconcerting for you.
- The system can sometimes be mystifying.
- This is a troubling situation for you.
- You sound like you have tried several things.
- It sounds like there are a lot of things going on in your child's life.

Phrases to Move the Meeting Along

- It would be helpful if we establish an ending time for this meeting. What would work best for everyone?
- We have approximately _____ (amount of time) to complete this meeting.
- If we have not concluded by _____ (time), we can always schedule another meeting.
- I will take responsibility for keeping track of time.
- Does everyone feel comfortable with the guidelines/time limits?
- I really just need to understand the big picture.
- I have some general information I need to get from you.
- I'd like to stop for a moment because I heard you say something very important. (At this posting rephrase what was said and indicate the next step this leads you.)
- Let's focus on the next step in the process. (Identify needs; look at previous goals and objectives, etc.)
- How about focusing on _____ (math, organization, etc.) now?
- So, the next step would be to . . .
- It sounds like that is very important to you and we will be addressing that issue (later, after we review previous goals, at a meeting with the principal, counselor, teacher).
- I'd like to get your _____ (parent, teacher, or administrator) input now so we can document all of these ideas.
- What ideas have you come up with for working on _____ at home?
- I have some ideas/materials on that subject that I could share with you after the meeting if you have time (or, offer to call them later, or send information to them).

COMPLETING THE IEP MEETING

1. Provide team members an opportunity to ask any final questions or concerns not previously addressed.
2. Document any follow-up actions necessary, the person responsible for each action, their position and the date by which the action will be completed. If the IEP meeting was recessed to resolve a matter, such as the location of a placement, determine who will be responsible for expeditiously finding a solution and reconvening the IEP meeting. If the parent did not attend the IEP meeting, document the person who will be responsible for discussing the IEP with the parent.
Note: Any task documented must be completed by the time indicated.
3. Complete the IEP and ask the parent to check the agreed box in the IEP and sign and date their consent. If the parent does not agree, clarify which elements of the IEP they agree to and those with which they disagree. Schools and parents are encouraged to work out disagreements when deemed appropriate. If it is believed that an agreement can be reached, decide what steps will be taken to reach an agreement such as:
 - a. Having additional persons with special expertise join the team.
 - b. Taking time to review the options individually.
 - c. Providing one another with written information to support the different perspectives.
 - d. Having the parent visit the class or program.
4. Document in the IEP the elements of agreement and disagreement, the steps that will be taken to reach agreement and a date for reconvening the IEP meeting. Adjourn the IEP meeting and reconvene at the specified date.
5. If the parent does not consent or agree to resolve the disagreement(s) informally through the informal dispute resolution process, the LEA may consider to enter into a more formal resolution process by filing with the Office for Administrative Hearings for mediation and hearing, or mediation only. See *Resolution Strategies* section for further information.

Note: Remind the parent(s) of the difference between an informal dispute resolution and due process as described in the *Parents' Rights and Procedural Safeguards*.

If the parent agrees to some elements of the IEP being implemented, list the elements and have them check their consent. Explain to the parent that until the disagreement is resolved, the student will continue to receive what is specified in the existing IEP and the elements of the IEP in dispute that they have agreed to be implemented.
6. Have all team members participating in the meeting print and sign their names legibly in the IEP.
7. Thank the members for their attendance and participation.

8. Encourage parents to contact school or other District staff, at any time, if they have questions or concerns.
9. Provide parents with the names and telephone numbers of school or other District staff they may want to contact. **Note:** Parents whose primary language is other than English must be provided with specific information on how their questions and concerns will be addressed in their primary language or other mode of communication (e.g. a bilingual contact person).
10. Ensure that individual District team members are clear about specific follow-up actions and timelines for which they are responsible, including completion of District forms.
11. Provide the parent with a copy of the completed IEP. If the parents submit a written request for translation of the IEP, arrange for the translation.
12. Following the meeting, distribute copies of the IEP to all staff who will be implementing it. Document the distribution on the IEP.
13. If the IEP team determined that the student requires transportation complete the Data/Transportation Form and follow the transmission directions on the form.

Whenever the team anticipates that an IEP meeting will be particularly difficult, the District Special Education Administrator should be notified. If, in the course of an IEP meeting, unanticipated issues arise that cannot be resolved without further investigation by the IEP Team, the following actions should be completed:

- Make clear the district's offer of FAPE.
- Let the parents know you would like them to take a week to consider the district's offer while you have the opportunity to consider parents' proposal.
- To allow the team the opportunity to consider both proposals, reconvene the meeting in five to seven days with all appropriate team members.
- Take your calendar out while everyone is there and schedule the follow-up meeting and document the meeting date.

TESTED TIPS FOR IEP MEETINGS

Parents and the IEP Meeting

- Organize questions and define areas where more information is needed
- Outline what you want your child to learn
- Bring a picture of your child
- Ask, “If this were your child....”
- Look for opportunities to express gratitude to teachers and school staff
- Bring someone
- If compromising, define how and when to evaluate if the plan is working
- Try to remain calm
- Saying “ I don’t know what you mean” is demonstration of confidence and competence

Teachers/School Staff and the IEP Meeting

- Explain crucial nature of parent’s involvement and what will happen at the meeting
- Invite parents to bring anyone they wish
- Explain who will attend from the school district, why, and ask parent if anyone has been left out
- Schedule a convenient time and location, and ample time for the meeting
- Establish if parent(s) need help with transportation or childcare
- Invite parents to review relevant documents prior to meeting and encourage classroom visits
- Keep parents apprised of progress on an ongoing basis
- Ensure that general education teacher is invited and participates in the meeting, as appropriate

The Meeting

- Everyone introduces himself or herself and explains their role
- Set a time-frame for the meeting and ask participants if they have any time constraints
- Speak in clear, plain language-avoid jargon and discipline specific
- Have specific materials available that are referred to
- Focus on the child’s individualized needs
- Listen carefully
- Maintain confidentiality
- Do not hurry
- Be honest and trust that others are also
- Be willing to say, “I don’t know”
- Involve student for at least a portion of the meeting, if it is appropriate
- Provide parent with a copy of the completed IEP

After the Meeting

- Review and evaluate what worked, what didn’t work
- Consider what should be incorporated into future meetings
- Consider building a meeting tip file for each child – sources of anger, joy, etc.
- Write down specific suggestions about things parents can do at home to help

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DETERMINING ELIGIBILITY

I Overview

In order for a student to be eligible for special education the student must have a disability and a unique learning need that cannot be met through general education with appropriate accommodations and modifications, and must require special education services to meet his/her unique learning need as determined through assessment.

- A. Student ceases to be eligible for special education if he/she no longer has a disability or has a unique need requiring special education.

Note: An assessment of the student must be conducted before the IEP team can make this determination.

II. In Determining Eligibility, the IEP Team Should Do the Following:

- A. Present assessment results if a purpose of the IEP meeting is to determine initial or continuing eligibility or to consider terminating special education and related service. Individuals knowledgeable about the assessment findings and who can interpret their instructional implications should give oral reports summarizing the findings from the assessment reports. This information should be communicated in clear, concrete language with minimal use of professional jargon. For example, in addition to using terms like “auditory memory” or “transitioning” the following might be included:

- “John has difficulty remembering directions ten (10) minutes after the teacher gives instructions.”
- “Susan becomes distracted and forgets what to do when moving from one activity to another.”

- B Encourage team members to ask for clarification if they do not understand what is being presented.

- C. Discuss the results from any independent educational evaluations conducted by qualified examiners. If the persons conducting the evaluations are present, ask to summarize their findings.

Note: Summarize the team’s consideration of the independent educational evaluation(s) on the IEP.

2. Determine whether the student has or continues to have one or more disabilities. When making this determination the IEP team should:

- Discuss characteristics of the student that support the identification of a disability.
- Answer the questions on the *Specific Learning Disabilities Form* when determining whether a student has a learning disability or when reevaluating a

- student with a learning disability.
 - Document the areas of disability that were discussed.
 - Identify the disability or disabilities for which the student is found eligible.
3. Determine whether the student has a unique learning need that requires special education services. When making this determination the IEP team should:
- For an initial IEP, develop and document a profile of the student's functioning including present levels of educational performance, and the accommodations and modifications that have been tried with the student and their level of success.
 - Discuss whether the student's disability has or continues to have an adverse effect on his/her educational performance.
 - Determine whether the unique educational needs of the student are not primarily due to:
 - a. Environmental, cultural or economic factors.
 - b. Lack of instruction in math.
 - c. Lack of instruction in reading.
 - d. Limited English proficiency.
 - e. Social maladjustment.
 - f. Temporary physical disability.

Note: If the IEP team determines that the student's unique educational needs are primarily due to one or more of the above factors, then the team must conclude that the student is not eligible for special education.

4. If it is determined that the student does not have a disability or no longer has a disability and thus is not eligible for special education, the IEP team may discuss other general education accommodations and modifications that might be beneficial.
5. If it is determined that the student has a disability, but does not require or no longer requires special education, the IEP team should discuss whether the student is eligible for a Section 504 Plan.

Note: If it is determined that the student may be eligible for a Section 504 Plan, the case manager refers the student for the 504 evaluation process.

6. If it is determined that the student is not or is no longer eligible for special education, document with a statement the student does not meet the eligibility requirements for special education services.
7. If it is determined that a student no longer requires special education, establish a date that the student will be exited from special education and enter the date on the IEP form.
8. Document the decisions made above on the IEP. If it was determined the student is not

or is no longer eligible for special education, the IEP meeting can be adjourned. If the student is determined to be eligible, proceed with the meeting.

9. If student is appropriately identified, is achieving IEP goals and objectives and functioning appropriately within the school setting, the team may determine that a formal assessment process to continue eligibility is unnecessary.

If the team determines that the student's eligibility should be reexamined, and/or that the student is not achieving IEP goals and objectives or functioning appropriately in the school setting, the team should determine that a formal assessment is necessary and specify the specific areas of assessment that are needed. Document the decision on the IEP.

Note: The assessment will be conducted during the 60-day period prior to the next three-year review. An assessment plan will have to be developed, at that time, and parental consent obtained before the assessment can be conducted.

*See *Evaluations* section for further information on Determining Eligibility.

PRESENT LEVELS OF PERFORMANCE

1. First, determine whether the student will participate in one or more of the following:

- The District general education curriculum for his/her grade level.
- The District general education curriculum using accommodations and/or modifications.

Document the decision in the Individualized Education Program (IEP).

2. Discuss how the student's disability affects his/her involvement and progress in the general curriculum or alternate curriculum in which the student may be participating and overall educational performance. Special factors such as health, physical or sensory limitations, behavior which impedes learning, language status, use of Braille or other modifications of media, communication needs and the student's need for vocational or prevocational career education, work experience education and/or independent living skills training should be discussed when appropriate. The discussion should be based on findings from formal and informal assessments of the student including State and District wide assessments and the assessment of student interests and abilities if an Individual Transition Plan (ITP) is being developed.

Note: Since it is SELPA policy that IEP goals are to be aligned to State standards, the use of results from standards-referenced assessments will allow the IEP team to identify the specific skills.

3. Discuss student's strengths/preferences/interests.

Record parent's concerns provided by the parent at the IEP Team meeting or per teleconference prior to the meeting.

4. Include assessments; indicate the date the assessment was taken by the student (Month/Day/Year). Scores reflecting the student's performance on state, district wide and other assessments may be gathered prior to the meeting. Review results of the most recent assessments as appropriate.
5. **Other Assessment Data:** Include results of district wide and/or individually administered assessments. For Hearing and Vision Screenings: Document the date of the screening. Indicate if the student passed or failed, if the parent denied permission or "Other" and indicate the reason. Add comments if needed.
6. For students who are pursuing a certificate of completion, determine which one of the following requirements the student is expected to meet and document the requirement on the IEP:
 - Satisfactory achievement of his/her IEP goals and objectives during high school as determined by the IEP team, or;
 - Satisfactory high school attendance, participation in the instruction prescribed in his/her IEP, and achievement of the transition goals and objectives.

If it is expected that this is the last IEP meeting before the student participates in graduation culmination exercises with a diploma or certificate of completion, complete the section on the IEP.

If the student is not graduating with a diploma, explain why the student may only participate in one graduation exercise either with their age appropriate peers or before they reach age twenty-two (22).

Note: If it is expected that the student will be completing his/her education, interview the student using the Student Exit Interview form and, when appropriate, provide the student assistance in completing the form. Maintain the completed form in the student's IEP file.

7. Beginning with the year that the student will turn 16, discuss and document on page one (1) of the ITP the results of the assessments of the student's interests and abilities. If the student has identified a Career Pathway, this information should be entered and updated at each IEP meeting as additional information becomes available.
8. If the IEP meeting is an annual review, refer to the present levels of performance from the previous IEP and utilizing monitoring information, discuss the progress the student has or has not made.
9. Identify performance areas in which the student requires support and the assessment or monitoring information used to make that determination. Examples of performance areas include: health/development; vision (including low vision); hearing; social emotional and

behavioral status; general ability; self- help; academic performance (e.g. reading, written language, math); orientation and mobility; language functions; motor abilities; and career and transition abilities.

10. For each performance area in which the student requires support, develop a narrative statement that establishes a baseline for the student's present level of performance in that area. The statement should be written in measurable terms that allow for monitoring and reporting on the progress the student is making. In academic areas, standards should be referenced where possible. Include the student's strengths and weaknesses in each identified area.
11. Beginning with the year that the student will turn 16, develop or modify a statement of transition service needs and a statement of needed transition services. This should be documented on the appropriate pages of the ITP and include the following:
 - Instruction: The student's educational goals and the courses needed.
 - How the student expects to live in the community after leaving school and what he/she will need to learn to be successful.
 - How the student expects to be employed and what he/she will need to know and do to be successful.
 - Adult agencies the student may benefit from upon leaving school and what the student needs to learn about the agencies' services and how to access the services.
 - When appropriate, for students needing to learn communication, social domestic, recreation, and leisure skills beyond those generally taught.
 - For functional vocational evaluation: When appropriate, for students requiring a more in-depth assessment that exposes them to real job tasks.

SUMMARY OF PERFORMANCE

The Summary of Performance (SOP) is required under the reauthorization of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). The IDEA [Section 614(c)(5)(B)(ii)] requires include following: “For a child whose eligibility under special education terminates due to graduation with a regular diploma, or due to exceeding the age of eligibility, the local education agency shall provide the child with a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals.”

The SOP, with the accompanying documentation, is critical as a student transitions from high school to higher education, post-secondary training and/or employment. This information is necessary to establish a student’s eligibility for reasonable accommodations and supports in *postsecondary* settings under Section 504 of the Rehabilitation Act and the IDEA 2004.

When developing the SOP, the student should actively participate. Other IEP team members, family members or other community agencies involved in this student’s transition planning process should also provide input. A well-written SOP will include the student’s current strengths, challenges, accommodations needed, etc., to assist the student with life after high school.

Prior to the student’s graduation, the student is to be interviewed using the SOP form. The Summary of Performance:

- Provides information to students who are graduating with a regular diploma to assist them in meeting their post-secondary goals; and,
- Provides information to students who are leaving school because they exceed the age of eligibility for a free appropriate public education (end of school year in which they turn 21) to assist them in meeting their post-secondary goals.

The IDEA 2004 does not explicitly require a Summary of Performance for students who are leaving school before the end of their entitlement period due to graduation with a modified diploma or another diploma or certificate. The California Department of Education (CDE) recommends that school district provide a Summary of Performance for these students also.

ANNUAL GOALS AND OBJECTIVES

If the student is receiving special education services, review all annual goals and objectives in the current Individualized Education Program (IEP) and determine whether the objectives under each goal have been met or not. All objectives have to be met in order for the goal to be met. For each goal that is not met determine the reason(s) why and what might be done to better assist the student to meet the goals. Enter this information on the IEP.

1. **Area of Need:** Indicate the area of need for each goal developed. These areas of need should match the “areas of need” on the Present Levels Page (e.g., math, reading, social/emotional).
2. **Baseline:** Specify the student’s baseline performance. The baseline should be a quantifiable description of classroom performance in the specified area directly related to the goal written (e.g., reads 20 sight words, writes a simple paragraph of 2-4 sentences).
3. **Measurable Annual Goal:** Annual goals must be measurable and must relate to the baseline data. Every effort should be made to identify and select appropriate standards at grade level. Goals must include:
 - Who? Student
 - Does what observable behavior? (e.g., will decode words with fluency)
 - When? By reporting date. For each goal, determine the date (month, year) that it is anticipated that the objective will be achieved.
 - Given what conditions? (e.g., when given a paragraph to read)
 - How much mastery, criteria? (e.g., 90% accuracy, 3 consecutive days)
 - How it will be measured? Performance criteria (e.g., as measured by teacher data). For each goal, determine the method of evaluation progress. For example, state assessment, norm-referenced assessment, criterion referenced assessment, curriculum-based assessment, observation, portfolio assessment, work sample, and informal assessment.

Note: If an assessment that is not generally administered to students in a class, school, or District is to be used, an assessment plan will have to be developed and approved before the assessment can be administered.

4. **Enables Student to be Involved and Progress in the General Curriculum:** Indicate if the goal the student is working on is written to standards. Document the number that corresponds with standard being addressed. First consider standards at the student’s chronological grade-level. Also consider pre-requisite skills, levels of the cognitive domain, accommodations, modifications and assistive technology.
5. **Addresses Other Educational Needs:** Indicate if the goal relates to other educational needs (i.e., behavior, social skills, etc.).
6. **Linguistically Appropriate Goal:** Indicate if the goal supports English Language Development for English language learners and that the goal is linguistically appropriate.

7. **Transition Goal:** Indicate if the goal supports a transition area for the Individual Transition Plan. Indicate which area the goal supports.
8. **Person Responsible:** List the title of the person(s) responsible for assisting the student to meet this goal. Determine the types of general education, special education and related services providers who will be responsible for instructing the student in each of the goals. It is possible that more than one person may be responsible. For example, both the general and special education teachers may be providing instruction to ensure that the student achieves the goal.

- Goals developed for related service providers may also be aligned to the content standards.
- Stand-alone goals, goals that cannot be linked to content standards, may need to be developed in performance areas not directly linked to content standards (e.g., behavior, transition).
- If the student will be matriculating from one school level to another during the coming year or shortly thereafter, or may be moving to a less restrictive placement, one or more goals should be developed to help the student make a successful transition.

Note: Beginning with the year that the student turns 16 and each annual review thereafter, develop goals that are designed to assist the student to pass required courses and exams for graduation.

9. If a goal is to be implemented by a related services provider, a resource specialist or a nonpublic agency, determine if the service will be provided “per week” or “per month” and the frequency/number of minutes of instruction and then document in the Service section of the IEP.
10. For each goal, determine the dates (month, year) that services will begin and when the goal should be achieved. While this will often be the date of the IEP meeting and the following 12 months, circumstances or student needs may necessitate other dates. For example, an IEP meeting held near the end of a school year may set goals that would begin to be implemented at the beginning of the next school year, or a goal might be established that should be implemented in 6 months, or in rare instances, a particular service may take some additional preparation and time to provide.
11. Determine how progress on each goal will be reported to the student’s parents. For example, report card, written progress report, parent conference. **Note:** Reporting must be at least as frequent as that provided for general education students.
12. If the student has been determined to be Limited English Proficient (LEP), identify linguistically appropriate goals and English language development services to assist the student develop fluency in English.

13. If the student is blind or visually impaired, the IEP Team must determine if the student requires instruction in Braille and the use of Braille. The team must consider: the findings from an assessment of the student’s reading and writing skills, needs, appropriate reading and writing media, and the student’s future need for instruction in Braille or the use of Braille. If the student requires instruction in Braille or the use of Braille, develop appropriate goals and objectives and document the need for Braille materials and equipment, “Assistive Technology Devices”, and “Low Incidence Support.”
14. **If the student’s behavior is an issue, implement the following:**
 - a. If the student is having behavioral problems, which are not considered serious, develop behavioral goals and objectives that teach appropriate social skills and provide for consistently scheduled reinforcement.
 - b. If the student is having behavioral problems in the school setting that are considered serious and interfere with daily learning, document/observe behaviors and develop a Behavior Support Plan. (See *Behavior Supports and Interventions*).
 - c. If the student is having daily behavioral problems in the school setting, that significantly interferes with the implementation of the student’s IEP goals and objectives and which is self injurious, assault or causes property damage, and which is severe, pervasive and maladaptive, and requires frequent and systematic application of behavioral interventions consider recommending a Functional Behavior Analysis (FBA) and the development of a Behavioral Intervention Plan (BIP). (See *Behavior Supports and Interventions* section for further information)

Note: If the IEP team determines that an FBA and BIP are warranted, an assessment plan will have to be developed after the meeting and an IEP team meeting scheduled to consider the findings of the FBA and to develop a BIP. Complete as much of the current IEP meeting as possible, with the understanding that an amendment IEP meeting will be held once the FBA is completed.

If the student is having behavioral problems, review the disciplinary policies to be followed by the student including the specific regular or alternative disciplinary measures that would result from particular infractions of school rules. Document the decisions in the IEP.

Progress Report

- Insert the date of this progress report.
- Summary of Progress: Document the student’s progress towards this goal. State if the student is expected to meet the goal by the annual review date.
- Comment: State any further comment or information regarding the student’s progress towards this goal (i.e., homework needs to be turned in; a new goal needs to be written).

- Goal: Annual Review: Insert the date of the annual review. Mark if the goal was met. Write in any comments as needed.

Notes

- Objectives or benchmarks are no longer required for students who are accessing the general curriculum.
- Draft goals may be developed prior to the meeting and reviewed with the team for changes.
- Annual goals must be measurable, and at least one annual goal must be written for each area of identified need.
- If English Learner, one of the goals must address English language development.
- For students who take an alternate performance assessment or who are working on a functional skills curriculum, annual goals AND objectives are required.

SPECIAL FACTORS

I. Assistive Technology

Identify if the student requires assistive technology devices and/or services to meet educational goals and objectives. Indicate determination by marking yes or no and explain your rationale. If yes, specify the type of devices, services, equipment, and/or materials needed.

II. Low Incidence

Identify if the student requires low incidence services, equipment and/or materials to meet educational goals and objectives by marking yes or no and explain your rationale. If yes, specify the type of services, equipment, and/or materials needed. *This applies only to students with the following eligibility categories: Deaf- Blind, Visually Impaired, Orthopedic Impaired, Hard of Hearing, and Deaf. Low incidence equipment is indicated only if it is required to meet specific educational needs.*

III. Blind or Visually Impaired

Indicate whether instruction in Braille will be provided, and if not, why not. If the student will not be using Braille, indicate if he/she will use large print text or other modified input. If the student's not blind or visually impaired, indicate "N/A".

IV. Deaf or Hard of Hearing

Specify the strategies, specialized instruction, and/or the mode of communication that will be employed. If the student is not deaf or hard of hearing, indicate “N/A”.

V. Orthopedic Impairment

If the student has an orthopedic impairment, specify the special equipment and services the student requires to access the general education environment, curriculum, and/or obtain their goal(s). If the student does not have an orthopedic impairment, indicate “N/A”.

VI. Physical Education

Include the type of physical education applicable to the student.

- Requirement Met: Has passed the Physical Performance Test in 9th grade and met minimum credit requirements for physical education at the high school level (CA Education Code Section 51241(b)(1)).
- General: Movement activities are provided by the general education PE teacher and may include accommodations, adaptations, or modifications, which are made by the general education PE teacher.
- Specially Designed: Physical education programming for a special education class that requires minimal or limited adaptations, accommodations, or modifications, and is taught by the person, general or special educator, who normally teaches physical education for this population.

VII. Transportation

If special education transportation is required include the rationale and specify the type: door to door, curb to curb, wheelchair, aide on board, ambulatory, restraints, child seat required, seat belt required, gurney required. Include parent provided transportation if parent is being reimbursed.

VIII. English Learner (EL)

Consider the language needs of the child as those needs relate to the IEP.

- Does the Student need primary language support? Yes or No (who will provide?)
- Who will provide English Language Development (ELD) instruction to student? Indicate who will provide the student’s ELD services by title (such as general education teacher, special education teacher, etc.).
- What type of ELD programs will be provided? EL students receive ELD services depending on their ELPAC scores or proficiency in English. The nature of the ELD services varies in each LEA. (CA Education Code Section 48985).

- Specify how student’s level of English proficiency will be addressed, including primary language support, ELD instruction to student and type of ELD programs provided that will be used to support the student’s acquisition of English as related to the IEP. If the student is not an English learner, indicate “N/A”.

IX. Behavior

Indicate if the student’s behavior impedes learning of self or others. If yes, describe how the behavior impedes learning and specify positive behavior interventions, strategies, and supports that will be employed to address the behaviors. **If** there is a positive behavioral intervention plan and/or IEP goal related to this area, it must be indicated. If positive behavioral intervention plan is marked yes, attach a copy to the current IEP. (See *Behavior Supports and Interventions* section for further information)

X. State/District Assessments

Participation in the California Assessment of Student Performance and Progress (CAASPP):
Indicate how the student will participate in CAASPP:

English Language Arts (3rd – 8th grade; 11th grade)

- Choose “out of testing range” if the student is not between 3rd and 8th grade or in 11th grade
- Smarter Balance Assessment Consortium (SBAC)
 - The IEP team determines if the student needs allowable designated supports and/or accommodations.
 - If the student does not need designated supports or accommodations, choose “SBAC without Designated Supports or Accommodations.”
 - If the student needs designated supports and/or accommodations, choose the correct boxes and indicate the appropriate embedded or non-embedded items.
 - If Accessibility Support is needed for the student, approval must be obtained from the California Department of Education (CDE). **Note:** Contact the district or test site CAASPP coordinator to complete and submit the appropriate form to CDE.
- Alternate Assessment
 - Indicate participation in the alternate assessment if the student has significant cognitive impairment.

Mathematics (3rd – 8th grade; 11th grade)

- For students 3rd grade through 8th grade and 11th grade
- Smarter Balance Assessment Consortium (SBAC)
 - The IEP team determines if the student needs allowable designated supports and/or accommodations.
 - If the student does not need designated supports or accommodations, choose “SBAC without Designated Supports or Accommodations.”
 - If the student needs designated supports and/or accommodations, choose the correct boxes and indicate the appropriate embedded or non-embedded items.
 - If Accessibility Support is needed for the student, approval must be obtained from CDE. **Note:** Contact the district or test site CAASPP coordinator to complete and submit the appropriate form to CDE.

- **Alternate Assessment**
 - Indicate participation in the alternate assessment if the student has significant cognitive impairment.

Science (5th, 8th and 10th grades only)

- Choose “out of testing range” if the student is not in 5th, 8th or 10th grade.
- **California Science Test (CAST)**
 - If the student does not need designated supports or accommodations, choose “CAST without Designated Supports or Accommodations.”
 - If the student needs designated supports and/or accommodations, choose the correct boxes and indicate the appropriate supports and/or accommodations.
 - **California Alternate Performance Assessment (CAA)**
 - If the student has a significant cognitive impairment, indicate the CAA Level that is most appropriate to measure student progress. See below.

For students taking the CAA, or alternate assessment, the IEP team must review the criteria for taking alternate assessments and check the corresponding box in the IEP document. The team must document the reason why the student is not participating in the SBAC and why participation in alternate assessment is appropriate.

Physical Fitness Test (5th, 7th & 9th grades only)

- Specify if the student will be taking the Physical Fitness Test with accommodations or modifications.

Level	General Performance Level Descriptors
3	Students at this level demonstrate understanding of core subject matter in the content area. They are actively working with adapted grade-level content that focuses on the essential knowledge and skills and may need occasional prompts and assistance to complete tasks and activities.
2	Students at this level demonstrate foundational understanding of core subject matter in the content area when provided with frequent prompts and supports. They are actively working with adapted grade-level content that focuses on the essential knowledge and skills and may frequently need supports to complete tasks and activities.
1	Students at this level demonstrate limited understanding of adapted grade level content that focuses on much of the basic knowledge and skills, even with extensive supports.

Other Statewide or District-wide Assessments/Alternate Assessments

- Specify the name of any assessment and accommodations or modifications the student may need to participate in Other State/District-Wide Assessments/Alternative Assessments.

Desired Results Developmental Profile (3 to 5-year old preschoolers)

- If the child will take DRDP, indicate the appropriate adaptations that will allow the student to be accurately assessed in his or her typical environment.

English Language Proficiency Assessment for California (ELPAC)

- For each area, indicate if the student will be tested with or without designated supports and/or accommodations. Specify for each area tested.

Alternate Assessment to ELPAC

- Document the specific area/s for assessment and specify the name of the alternative assessment being used and the person responsible to administer the alternate assessment. (For example, the VCCALPS instrument for all areas of EL proficiency).

Standards Based Test in Spanish (STS)

- For each area, indicate if the student will be tested with or without designated supports and/or accommodations. Specify for each area tested.

XI. Other State-Wide/District-Wide Assessments

XII. Other Alternate State-Wide/District-Wide Assessment(s)

Identify any alternate tests the student may be taking (e.g., VCCALPS, ALPI, SANDI) and **why** it is appropriate.

Do not put parent exemption on the IEP as a reason that the student will not participate. The IEP Team must address how the student would participate even if there is a parent exemption. The parent must file the exemption with the school site according to the district procedures for all students.

Reference: “State SELPA Forms Manual – Writing IEPs for Educational Benefit.” This document is included in the *IEP Manual* Section.

XIII. Educational Benefit Reminders

- A. Has the IEP Team addressed all the special considerations the student may require?
- B. Does the student demonstrate behavior(s) that impede learning, and if so, how will positive behavior interventions, strategies, and supports be provided?
- C. Does the IEP team agree on the areas of need to be addressed in the special factors as identified on the Present Levels and Annual Goals pages?
- D. Is participation on state and district-wide assessments, including accommodations and modifications, in accordance with state guidelines?
- E. Are alternate assessment(s), including the reasons, clearly noted if required?

STANDARDS, ACCOMMODATIONS, AND MODIFICATIONS

- I. Overview: For all K-12 students who are instructed in the general curriculum, discuss that the student will be expected to meet District promotion standards unless the IEP team decides otherwise. Consider the following:
 - A. Does the disability impact the student's ability to meet District grade level standards? If yes, discuss how the student's disability affects the student's learning and how this influences the student in meeting promotion standards. For example, a student who has difficulty with visual processing will have to be taught alternative strategies for mastering reading skills. This may impact the materials used for instruction and the time required for the student to master specific skills.
 - B. Is the student expected to meet grade level promotion standards? If the answer is yes, discuss whether the student should participate in a District Intervention Program in order to meet the standards.
 - C. What accommodations and/or modifications are necessary to help the student progress in the general curriculum? Accommodations are changes to how the student demonstrates mastery of skills associated with meeting grade level standards. For example, the student is permitted to do fewer math problems or audiotape a report rather than using a word processor or handwriting. Modifications are changes to the content of instruction. For example, a student might learn the major concepts leading to the Revolutionary War and not be expected to learn the exact years of each smaller battle. **Note:** The ongoing use of modifications may impact meeting promotion and graduation standards.
 - D. What accommodations and/or modifications are necessary for a student in grades 7-12 to complete the District's prescribed course of study and to meet or exceed the proficiency standards necessary for graduation?
- II. Discuss the accommodations, modifications, or services, if any, that the student requires to participate in non-academic and extra-curricular activities.

Non-academic and extra-curricular activities are those activities provided or sponsored by the school or District available to other students in the school. They do not include other community-based activities. Identify the staff who will be responsible for providing the accommodations, modifications or services. In the IEP meeting notes, document a summary of all information considered by the team in making the decision.

- III. Document the supplementary aids and services and/or supports for student and/or school personnel. Document accommodations and/or modifications that will be needed for the student to progress toward annual goals, participate in the general curriculum, participate in extra-curricular activities and be educated with other students with disabilities and/or with non-disabled students. Remember accommodations do not fundamentally alter or lower expectations or standards in instructional level, content, or performance criteria whereas modifications fundamentally alter or lower expectations on assignment.

Refer to *Instructional Planning, Implementation and Review* section for further information regarding accommodations and/or modifications for State Testing.

SERVICES AND SUPPORTS

I. Overview

Discuss the services that the student will need to reasonably achieve the goals and objectives that were developed and the most appropriate service providers, including but not limited to general education teachers, special education teachers, and related service providers.

In order for an IEP team to recommend a special education or related service, the goals and objectives agreed to must justify the need for the service and provide the direction necessary to guide the providers' work with the student. In addition, for a student to receive a related service, an assessment, conducted by qualified assessor, must have indicated the student's need for the service and that the service cannot be provided by a general or special educator.

II. Continuum of Services

A. The team must always first consider placement/services in the general education classroom with supports prior to recommending a more restrictive setting. Follow the continuum of services below as a guide to determining LRE:

- General Education Class
- General Education Class with Supplemental Aids and Services
- General Education Class with Related Services
- General Education Class with Consult and Collaboration from the Special Education Staff
- General Education Class with Specialized Academic Instruction in class (including RSP support)
- General Education Class with Specialized Academic Instruction in a separate class (including RSP support)
- Separate Classroom with Specialized Academic Instruction for majority of day
- Separate Classroom with Specialized Academic Instruction for majority of day utilizing alternate curriculum standards (SDC Moderate/Severe)
- State Special School (Referral only if not already accepted by school)
- Non-Public School
- Alternative Education
- Home/Hospital
- Instruction in Non-Classroom setting
- Other

B. Discuss the amount of time that the student will require special education and related services. For related services providers, review the amount of the time specified under each goal. Calculate on a weekly basis the percentage of time the student is in school that he/she will be receiving special education and related services.

III. Special Instruction

- **Specialized Academic Instruction:** 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. (e.g., Resource Specialist Program (RSP)-push-in inclusion, RSP-pull out, Special Day Class (SDC)-inclusion services, SDC-public integrated, SDC-public segregated, SDC-non-public school).
- **Intensive Individual Instruction:** IEP Team determination that student requires additional support for all or part of the day to meet his or her IEP goals (e.g., one-on-one instructional assistant).
- **Individual and Small Group Instruction:** Instruction delivered one-to-one or in a small group as specified in an IEP enabling the student to participate effectively in the total school program.

IV. Related Services

If necessary, discuss any additional support services that may be needed to support the student's special education and related services. This might include interpreters for deaf student, etc.

- **Language and Speech:** Includes receptive and expressive language, articulation, voice and fluency, as well as pragmatic language.
- **Adapted Physical Education:** Direct physical education services provided by an Adapted Physical Education (APE) specialist. Specially designed and adapted physical education can only be agreed to if an assessment has been conducted, the IEP team has found the student in need to this related service in order to benefit from special education services, and goals and objectives have been developed.
- **Health & Nursing – Specialized Physical Health Care Services:** Specialized physical health care services (SPHCS) means those health services prescribed by the child's licensed physician and/or surgeon requiring medically related training of the individual who performs the services and which are necessary during the school day to enable the child to attend school. SPHCS include but are not limited to suctioning, oxygen administration, catherization, nebulizer treatments, insulin administration and glucose testing.
- **Health & Nursing – Other Services:** This includes services that are provided to students by qualified personnel pursuant to an IEP when a student has health problems, which require nursing intervention beyond basic school health services. Services include managing the health problem, consulting with staff, group and individual health-based counseling, making appropriate referrals and maintaining communication with agencies and health care providers.
- **Assistive Technology Services:** Any specialized training or technical support for the incorporation of assistive devices, adapted computer technology or specialized media

within the educational programs to improve access for students. Discuss if the student requires assistive technology, using information previously discussed by the team. Focus first on specific present levels of performance. Consider any assessment information presented. In addressing the student's need for assistive technology begin with low/no tech (i.e. graphic organizers, color coding, picture boards) to mind level technology (calculator, books on tape) to higher-level technology (word processor, computers). If equipment is recommended, use descriptive terms, not brand names (i.e. Word Processor not "Samsung Chromebook"). Be sure that the need for assistive technology is documented in the student's present levels of performance, and that goals and objectives incorporate the assistive technology selected.

- **Occupational Therapy (OT):** OT includes services to improve student's educational performance, postural stability, self-help abilities, sensory processing and organization, environmental adaptation and use of assistive devices, motor planning and coordination, visual perception and integration, social play abilities, and/or fine motor skills.
- **Physical Therapy (PT):** Services to be provided by a registered PT, pursuant to an IEP, when assessment shows discrepancy between gross motor performance and other educational skills.

V. Behavior and Mental Health Services

- **Individual Counseling:** One-to-one counseling, provided by a qualified individual pursuant to an IEP.
- **Counseling & Guidance:** Counseling in a group setting, provided by a qualified individual pursuant to an IEP.
- **Parent Counseling:** Individual or group counseling provided by a qualified individual pursuant to an IEP to assist the parent(s)/guardian(s) of special education students in better understanding and meeting their child's needs.
- **Social Work Services:** Includes services provided pursuant to an IEP by a qualified individual.
- **Psychological Services:** Services provided by a credentialed or licensed psychologist pursuant to an IEP.
- **Behavior Intervention Services:** A systematic implementation of procedures designed to promote lasting, positive changes in the student's behavior resulting in greater access to a variety of community settings, social contacts, public events, and placement in the LRE.
- **Day Treatment Services:** Structured education, training and support services to address the student's mental health needs.
- **Residential Treatment Services:** An out-of-home placement that provides intensive, around the clock therapeutic services to support the educational program.

VI. Low Incidence Services

Determine whether the student qualified for low incidence services. The District can receive State funding to support the special equipment needs and services of students with low incidence disabilities (students with a visual impairment, students who are deaf or hard of hearing, and students with a severe orthopedic impairment). The need for low incidence equipment and/or services is assessed by the classroom and/or special education teacher and appropriate related services professionals and determined by the IEP team. The following are examples of the specialized equipment and/or services.

- Specialized communication instruction/equipment (e.g., Braille, speech reading, American Sign Language, Finger Spelling, communication boards and/or communication devices)
- Specialized materials and equipment to access curriculum (e.g., Braille readers/writers, amplification devices, specialized computer hardware and/or software)
- Specialized transportation (e.g., lift bus)
- Specialized equipment/instruction to acquire daily living skills
- Assistance with personal needs
- Specialized career and vocational instruction

Document on the IEP if the student qualified for low incidence services and the services needed. Be sure that any assistive technology cited is also documented on the Special Factors page of the IEP.

VII. Transition

Beginning with the year that the student will turn 16, discuss whether the student will require the services of outside agencies to meet the transition related goals and objectives.

Document the decision. Transition services include:

- **Career Awareness:** Transition services include a provision for self-advocacy, career planning, and career guidance.
- **Vocational assessment, counseling, guidance, and career assessment:** Organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment and may include provision for work experience, job coaching, development and/or placement, and situational assessment. This includes career counseling to assist student in assessing his/her aptitudes, abilities, and interests in order to make realistic career decisions.
- **Work Experience Education:** Work experience education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

- **Job Coaching:** Job coaching is a service that provides assistance and guidance to an employee who may be experiencing difficulty with one or more aspects of the daily job tasks and functions. The service is provided by a job coach who is highly successful, skilled and trained on the job who can determine how the employee that is experiencing difficulty learns best and formulate a training plan to improve job performance.
- **Mentoring:** Mentoring is a sustained coaching relationship between a student and teacher through on-going involvement and offers support, guidance, encouragement and assistance as the learner encounters challenges with respect to a particular area such as acquisition of job skills. Mentoring can be either formal as in planned, structured instruction or informal that occurs naturally through friendship, counseling and collegiality in a casual, unplanned way.
- **Agency Linkages (referral and placement):** Service coordination and case management that facilitates the linkage of individualized education programs.
- **Travel Training (includes mobility training)**
- **Other Transition Services:** These services may include program coordination, case management and meetings, and crafting linkages between schools and between schools and post-secondary agencies.
- **Other special education related services:** Any other specialized service required for a student

See *Transition* section for further information.

VIII. Extended School Year

Determine whether the student requires extended school year (ESY) services. ESY services are provided during the summer/intersession for a student who the IEP team determines will experience a loss of skills (regression) during the break from school that he/she will not recoup in a time frame comparable to typical students upon return to school. Most students regress during school breaks and recoup their lost skills within an expected period of time when school reconvenes. For a student to have a regression and recoupment problem, the IEP team must consider the student's past performance and determine that the student is at risk of not recouping skills within the normally expected period of time. A student with severe disabilities may also be eligible for ESY services if he/she requires such services in order to attain critical skills that are essential to the progress of the student and lead to independent functioning and integration with non-disabled individuals. (*Title 5 CA Code of Regulations (CCR) Section 3043*)

PROCESS FOR DETERMINING PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT IN THE I.E.P.

1. Explain that the IEP team has the responsibility to determine the appropriate educational setting for the delivery of the services.
2. Explain that, the legal principle of “least restrictive environment” requires, to the maximum extent appropriate, students with disabilities should be educated with students who are not disabled. Placement in a special class or separate schooling should only occur when the nature or severity of the student’s disability is such that education in a general education class with appropriate accommodations, modifications, services and supports cannot be achieved satisfactorily.
3. Explain that the District provides a continuum of placements. Review the continuum, explaining that they are listed from the least restrictive to the most restrictive. Explain that, consistent with the principle of serving the student in the “least restrictive environment,” consideration of the appropriate placement option for the student should begin with the general education classroom.
4. Progressing through the continuum, discuss the placement options and whether the student’s goals and objectives, with the accommodations, modifications, services and supports previously agreed to can reasonably be met. If the team rejects a less restrictive option, it must explain why that option has been rejected.
5. Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student’s language and communication needs, opportunities for direct communications (without an interpreter) with peers and professional personnel in the student’s language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student’s language and communication mode.
6. If the behavior of the student is a factor in the placement decision, the IEP team must address the following:
 - What are the behavioral expectations in the student’s classroom(s)?
 - Has a collaborative team consisting of people with expertise and experience working with the student and his/her family been assembled to support the student by developing positive behavioral supports?
 - Do behavioral supports need to be developed for the student’s behaviors, which are not considered to be serious? If so, have the specific behavioral goals and objectives, consistent reinforcements and social skills to be taught, been written into the IEP? If not, add them.
 - Is the student demonstrating serious behaviors, which interfere with daily learning? Has a Behavior Intervention Plan (BIP) been developed that identifies the communicative intent of the behavior(s), the antecedent/environmental factors

contributing to the behavior(s), social skills to be taught, goals and objectives and needed accommodations, modifications, services and supports? If a BIP has not been developed, the IEP team should develop one.

- If the student demonstrates a serious behavior problem that significantly interferes with the implementation of the student's IEP goals and objectives and which is self-injurious, assaultive or causes property damage, and which is severe, pervasive and maladaptive and requires frequent and systematic application of behavioral interventions, has a Functional Behavioral Assessment (FBA) been conducted? If not, the IEP team should consider requesting a FBA before considering placement in a more restrictive environment.
- If the student has had a FBA, has a BIP been developed by the IEP team? If not, the IEP team should consider developing one.

In considering the above, be sure to identify and document on the IEP the following:

- Previously effective means of addressing the behavior.
 - The team members involved in implementing the Behavior Intervention or Behavior Support Plan.
 - The current classroom management practices that will be augmented.
 - The instructional strategies, enabling responses, and reinforcement strategies that will be employed.
 - The settings in which the Behavior Intervention Plan or Behavior Support Plan will be consistently used.
 - The acceptable interventions to ensure the safety of the student and others according to District standards.
7. When considering placement in the general education classroom the following must be addressed and documented on the IEP:
- What modifications need to be provided by the general education teacher in order for the student to be involved in and progress in the general curriculum, be held to high achievement standards, appropriately interact with typical peers in the classroom and activities outside of the classroom, including extracurricular activities?
 - What specific services are necessary to support the general education teacher in providing the modifications or accommodations?
 - What specific special education and related services need to be provided?
8. If the IEP team is considering placement outside of the general education classroom the following must be addressed and documented on the IEP:
- Identification of the general education courses and subjects to which the student will be assigned.

- How the student will participate with non-disabled peers, socially and/or academically?
 - How the collaborative team can use the student's strengths in providing instruction?
 - A plan to support the student's movement to a less restrictive environment, including activities that will be conducted to implement the plan.
9. If the District is considering related services for the student that are not available at their school or within the District, identify to whom the referral will be made.
 10. If during the next 15 months it is anticipated that the student will matriculate to the next school level (i.e. elementary to middle school, middle to high school), consider and document the activities that will be conducted to support a successful matriculation.
 11. Determine the percentage of time that the student will be receiving special education services during an average week. Include related services in the calculation. Monthly services must be calculated to the week; *for example, one hour per month would add 15 minutes a week to the time the student is receiving special education services.* Percentages will vary based on the school calendar as some schools have longer days. For students who are or will be enrolled in nonpublic schools the nonpublic school will indicate the total minutes the student spends daily receiving special education services.
 12. Determine the appropriate placement for the student to receive ESY services, if the student requires such services.

WHAT LRE IS / IS NOT

The following provides information on what **LRE is** and what **LRE is not**.

LRE is:

- Required by Federal and State law.
- Where students with disabilities attend schools that are as close to their residence as possible.
- An individualized determination of the appropriate placement for educating a student with a disability which is made by a team of service providers, including the student's parents and, when appropriate, the student.
- Consideration of the full continuum of educational options to meet the student's unique needs.
- Placement of students with disabilities with peers who are at or near the same chronological age.
- Bringing supports and services to students where students need them.
- Providing access to the general education curriculum.
- Collaboration and shared responsibility between general and special educators,

administrators, parents, and students with disabilities.

- Providing special education programs and services at all schools in the LEA, maximizing opportunities for interaction between students with and without disabilities.

LRE is not:

- An option.
- Educating students with disabilities without consideration of the school they would attend if they were not disabled.
- Special education placement based upon the category of disability (e.g., all students with Down Syndrome educated in a Special Day Class).
- Placement of only students with mild disabilities in general education classroom.
- Considering only one placement option within the continuum (e.g., general education placement, special education class).
- Placement of students with disabilities with peers who are not at or near the same chronological age.
- Making supports and services available only in specific placements, thereby forcing the student and family to choose between receiving services or being educated with typical peers.
- Providing a separate curriculum, not related to the general education curriculum.
- Special educators assuming sole responsibility for the education of students with disabilities.
- Clustering students with disabilities in a few schools or in segregated classrooms rather than across all classrooms in the school.

FEDERAL LAW

The federal IDEA related to least restrictive environment (LRE) requirements are cited below.

34 Code of Federal Regulations (C.F.R.) § 300.114

(a) General.

(1) Except as provided in § 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§ 300.115 through 300.120.

(2) Each public agency must ensure that—

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if 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.

20 United States Code (U.S.C.) § 1412(a)(5)(A)

(5) Least Restrictive Environment

(a) General.

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

34 Code of Federal Regulations (C.F.R.) § 300.115(a)

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

- (1) Include the alternate placements listed in the definition of special education under § 300.8 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Authority: 20. U.S.C. 1412 (a)(5))

STATE LAW

Pursuant to California Education Code § 56040.1,

In accordance with Section 1412(a)(5) of Title 20 of the United States Code and Section 300.114 of Title 34 of the Code of Federal Regulations, each public agency shall ensure the following to address the least restrictive environment for individuals with exceptional needs:

- (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 regular 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.

STATE PERFORMANCE PLAN INDICATOR INFORMATION ON LEAST RESTRICTIVE ENVIRONMENT

As required by the Individuals with Disabilities Education Act (IDEA) of 2004, Part B, the California Department of Education (CDE) Special Education Division (SED) has developed the State Performance Plan (SPP), which is a six-year plan covering fiscal years (FY) 2013–14 through 2018–19. The CDE identifies certain local educational agencies (LEA) as significantly disproportionate based on race or ethnicity with respect to the identification of children with disabilities; the identification of children in specific disability categories; the placement of children with disabilities in particular educational settings; or the incidence, duration included, type of disciplinary actions, including suspensions and expulsions.

Under IDEA requirements, if a LEA is identified as significantly disproportionate, the LEA must reserve 15 percent of its 611 and 619 IDEA grant funds to provide comprehensive CEIS to students in the LEA. These services are specifically reserved for students who do not currently receive special education services, but who need additional academic and behavioral supports to succeed in a general education environment. (Source: CDE *Significant Disproportionality Coordinated Early Intervening Services Requirements and Instructions 2016*)

Indicator 5–Least Restrictive Environment is an annual performance report measurement used by the SED according to its SPP measurements. Indicator 5 measures the average amount of time special education pupils, between the ages of 6 through 21, receive their services in settings apart from peers without disabilities.

Three measurement factors for Indicator 5 are listed below.

- A. Inside of the regular class 80 percent or more of the day

Note: Indicator 5A typically refers to students in Resource Specialist Program (RSP).

- B. Inside regular class less than 40 percent of the day

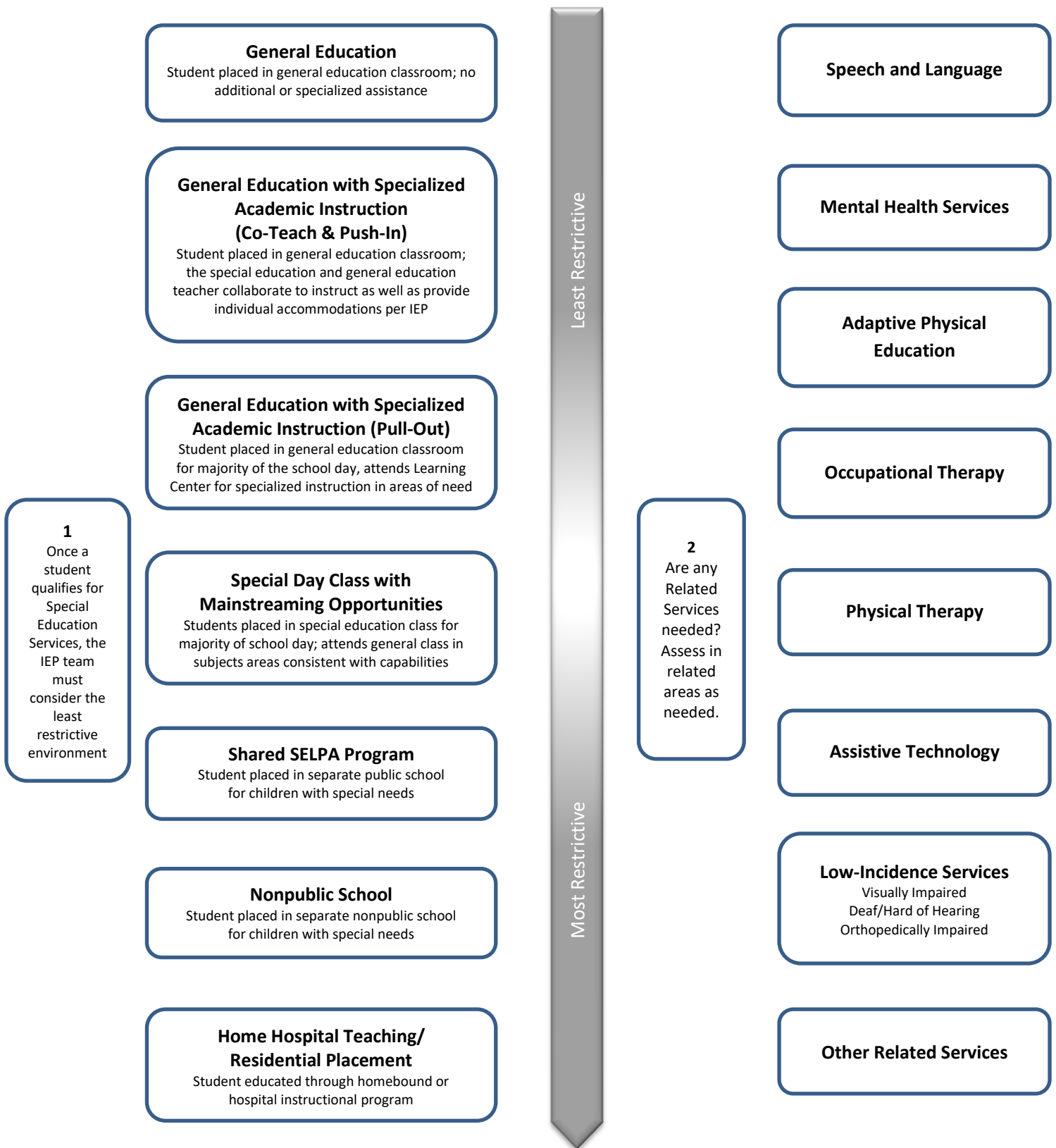
Note: Indicator 5B typically refers to students served in Special Day Class (SDC).

- C. In separate schools, residential facilities, or homebound placements

Note: Indicator 5C refers to students served in nonpublic or separate schools.

Provided on the following page is an LRE chart made available with permission through the Huntington Beach Elementary School District.

Least Restrictive Environment Chart



Section G: Instructional Planning, Implementation, and Review

- Introduction
- Standards, Assessment, and Accommodations
 - Educational Benefit
 - Statewide Pupil Assessment System
 - Content Standards
 - Statewide Assessments
 - Universal Tools, Designated Supports, & Accommodations
 - California Alternate Assessments
 - IEP Guidelines
 - Difference Between Accommodations & Modifications
 - Accommodations and Modifications Resources
- Common Core State Standards
- Grading Guidelines

INTRODUCTION

Since 1997, the Individuals with Disabilities Education Act (IDEA) required that “children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations or modifications in administration, if necessary.” The No Child Left Behind Act also requires that students with disabilities be included in State accountability systems.

The information provided in this document is to serve as guidance for best practices in selecting, administering, and evaluating access via universal tools, designated supports, adaptations, accommodations and/or modifications in instruction and assessment. This document provides information on federal and state guidance and accommodations for statewide testing, Common Core State Standards, and strategies for access to the core curriculum.

Included in this section are guidelines in the following areas:

- Standards, Assessment, and Accommodations;
- Common Core State Standards;
- English Learners with Disabilities;
- Grading Practices for Students with Disabilities.

The information found in this section supplement many of the sections throughout this Special Education Procedural Manual.

STANDARDS, ASSESSMENT, AND ACCOMMODATIONS

The following section was adapted from “Guidelines for Grading Students with Disabilities,” Riverside County Special Education Local Plan Area (SELPA).

I. The Educational Benefit Argument

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 public education’ as defined by the Act.
- The Act consists of access to specialized instruction and related services which are individually designed to provide educational 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 educated 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. [§1400(c)(1)]
- However, the implementation of this title has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities. [§1400(c)(4)]
- 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 Code of Federal Regulations {CFR} 300.39(a)(1)]
- Specially-designed instruction means adapting, as appropriate to the needs of an eligible

child ^[L]_[SEP] 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)]

Both general and special education teachers may need training in how to differentiate the curriculum, use a variety of instructional strategies, and/or grading practices for students with disabilities.

II. Statewide Pupil Assessment System

Signed into law on October 2, 2013, Assembly Bill (AB) 484 established California's new student assessment system, now known as the California Assessment of Student Performance and Progress (CAASPP). The CAASPP assessment system replaced the Standardized Testing and Reporting (STAR) Program, which became inoperative on July 1, 2013.

Smarter Balanced is a Consortium that works with teams of national experts to develop a balanced assessment system that accurately measures student progress and growth toward college and career readiness. The Students with Disabilities Advisory Committee is comprised of national experts in learning disabilities, assistive technology, and accessibility and accommodations policy. This committee provides feedback to Smarter Balanced staff, work groups, and contractors to ensure that the statewide assessments provide valid, reliable, and fair measures of achievement and growth for students with disabilities.

The statewide assessment system is designed to capture the data needed for individual, school and district based annual reports on meeting the standards and assessment targets. The system provides for the provision of variations, accommodations, and modifications to meet the needs of students in general education, on a Section 504 Accommodation Plan, and/or on an IEP. This will be addressed further in this document.

III. Content Standards

It is important to recognize that today’s education system is driven by standards, assessment, and accountability measures such as promotion and retention criteria. These principles and practices apply to all students, including students with disabilities.

Content standards were designed to encourage the highest achievement of every student, by defining the knowledge, concepts, and skills that students should acquire at each grade level. The content standards adopted by the California State Board of Education (SBE) are listed on the following page.

- Common Core State Standards for English Language Arts, Adopted August 2010 (PDF; 2MB) (Modified March 2013 Publication Version) ^[L]_[SEP]
- California Common Core State Standards for Mathematics, Adopted August 2010 and Modified January 2013 (DOC; 6MB) (April 2014 Version)

- English Language Development, 2012 (Updated 2019)
- Career Technical Education (Updated January 2013 Prepublication Version)
- Health Education Content Standards March 2008 (PDF; 1MB)
- History-Social Science, Adopted October 1998 (PDF)
- Model School Library Standards, Adopted September 2010 (PDF; 1MB)
- Physical Education Model Content Standards, Adopted Jan-2005 (PDF; 2MB)
- Science Adopted, September 2013^{SEP}; Visual and Performing Arts, Adopted January 2001 (PDF; 2MB)
- World Language, Adopted January 2009 (PDF; 4MB)

Each local Board of Education has adopted standards matching or aligned with the state standards. The SBE has also adopted instructional materials designed to cover the core and ELD curriculum standards. The local boards have authority to decide the instructional materials to be utilized in each content area and/or program and generally adopt the SBE approved materials along with supplementary or alternate instructional materials. In addition, the local Board of Education must establish policies and procedures related to the promotion and retention of students.

IV. Statewide Assessments

The California Department of Education (CDE) has a clear vision and commitment to establishing innovative assessments. These assessments include a variety of approaches and item types that model and promote high-quality teaching and student learning and set a course to ensure that all California students are well prepared to enter college and careers in today's competitive global economy.

California Assessment of Student Performance and Progress (CAASPP)

California's new statewide student assessment system established January 1, 2014.

Smarter Balanced Assessment System

Latest information about new generation of English language arts/literacy and mathematics assessments.

English Language Proficiency Assessment of California (ELPAC)

A required state test for English language proficiency that is given to students whose primary language is other than English, formerly CELDT.

California High School Exit Examination (CAHSEE)

Beginning with the Class of 2006, all public school students were required to pass the CAHSEE to earn a high school diploma. Senate Bill 172, signed into law effective January 1, 2016, suspended the CAHSEE diploma requirement and the administration of the CAHSEE through the 2017-18 school year.

California High School Proficiency Examination (CHSPE)

A test for eligible students to earn a high school proficiency certificate.

Grade Two Diagnostic Assessments

Information about diagnostic assessments for students in grade two in English language arts/literacy and mathematics that meet the requirements of California *Education Code* Section 60644.

High School Equivalency Tests (HSET)

High school equivalency tests for students 18 years old and older, and 17 years old in some instances, for the purpose of receiving a California High School Equivalency Certificate.

National Assessment of Educational Progress (NAEP)

Tests administered to students in grades four, eight, and twelve in subjects such as reading, writing, mathematics, and science.

Physical Fitness Testing (PFT)

A physical fitness test (FITNESSGRAM®) administered to students in grades five, seven, and nine.

V. Matrix One: Universal Tools, Designated Supports, And Accommodations

The California Department of Education (CDE) has recently updated its testing and accountability website for Matrix One: CAASPP at:



<https://www.cde.ca.gov/ta/tg/ai/caasppmatrix1.asp>

On the following is a reprint from this CDE webpage:

This page is the Accessible Alternative Version (AAV) of the Matrix One: Universal Tools, Designated Supports, and Accommodations for the California Assessment of Student Performance and Progress for 2016–17 (**Updated** Mar-2017). The PDF version is considered to be the official version of the document.

This document should be used in conjunction with the:

Smarter Balanced Consortium: Usability, Accessibility, and Accommodations

Guidelines  (PDF) and *California Code of Regulations*  (CCR), Title 5 (5 CCR), sections 850 through 868 of the California Assessment of Student Performance and Progress (CAASPP) regulations, to determine the use of resources for individual students.

The appropriate use of universal tools, designated supports, and/or accommodations on CAASPP tests is restricted to only those identified in this document.

Matrix One displays the universal tools, designated supports, and accommodations (embedded and non-embedded) allowed as a part of the CAASPP System for 2016-17*.

*Some embedded universal tools, designated supports, or accommodations are available only for specific items (i.e., test questions) for which they are allowed. If a non-embedded tool is shown to be available for "allowed items," it may be used only for the specific items for which the embedded version of the tool is available. Please note that the resources shown for the 2017 science pilot test will be expanded for the operational administration.

- **Universal tools (U)** are available to *all* students on the basis of student preference and selection.
- **Designated supports (D)** are available to *all* students when determined for use by an educator or team of educators (with parent/guardian and student input, as appropriate) or specified in the student's individualized education program (IEP) or Section 504 plan.
- **Accommodations (A)** must be permitted on CAASPP tests to all eligible students if specified in the student's IEP or Section 504 plan.

Instructional supports and resources for the California Alternate Assessments (CAAs) can be found in Part 3 of the CAASPP Matrix. Information about requesting the use of unlisted resources and a list of identified unlisted resources that have been determined to change the construct being tested are provided in Part 4 of the Matrix.

VI. California Alternate Assessments

Most universal tools, designated supports, and accommodations listed in Parts 1 and 2 of the CAASPP Matrix are available for the CAAs for ELA and mathematics through the online testing interface, but because the CAAs are administered to students one-on-one by a test examiner and because they may also be administered in the language of instruction, some embedded resources are not provided. For the CAA science pilot, due to the design, any instructional supports used in daily instruction may be used for the embedded performance tasks.

Embedded resources NOT available for CAA:

- American Sign Language videos (test examiner is allowed to sign to the student as the language of instruction.)
- Braille (either by means of an embosser or a refreshable display)
- Closed captioning
- English dictionary Spanish stacked translation and test directions
- Text-to-speech
- Translation glossaries

The “language of instruction” may include instructional or physical supports needed for communication and instruction. Some test practices (e.g., hand-over-hand), as noted in the *Test Administration Manual*, are inappropriate and **not** allowed. Examples of permissible non-embedded instructional and physical supports are provided below.

Examples of Instructional supports

- Alternate text to describe illustrations as needed
- Allowing the student to use an augmentative communication device (e.g., Audiovox, switch)
- Allowing nonverbal students to respond with gestures, movements, or vocalization in place of speech
- Accepting eye gaze as a way of indicating a response
- Accepting a change in muscle tone or a change in facial expression as an observed behavior
- Allowing students to direct another person (aide or test examiner) in performing physical tasks
- Allowing use of the student’s calculator, 100s number table, or other instructional supports instead of the embedded supports provided through the testing platform as long as those supports do not impact the test construct

Examples of Physical supports

- Structuring the test environment to eliminate distractions for students who are particularly distractible
- Positioning and stabilizing the student to allow for the most controlled movement possible

VII. IEP Guidelines

The provision for accommodations and modifications is addressed in several places throughout the IEP. The IEP teams are required to address the areas listed below.

1. **Supports for Participation in General Education Activities**
Identify the supports a student will need to participate in general education activities.
2. **Standards-Based Promotion**
Describe the instructional accommodations or modifications a student will need in order to progress in grade-level content curriculum. These must be explicitly described and related to the areas of weakness described in the present level of performance.
3. Describe the instructional accommodations or modifications a student will need to participate in State and District-wide assessments. Recommended accommodations or modifications must be allowable by the State and used in daily instruction. The testing matrix (see web address) will assist in identifying allowable accommodations and modifications.
4. Check the curriculum in which the student will be participating.
 District curriculum for his/her grade level.

- District general education curriculum using accommodations/modifications.

Subsequent to the IEP meeting, information regarding the designated accommodations and modifications selected for the student must be provided to all personnel working with the student.

- A. Does the disability impact the student's ability to meet District grade level standards? If yes, discuss how the student's disability affects the student's learning and how this influences the student in meeting promotion standards. *For example, a student who has difficulty with visual processing will have to be taught alternative strategies for mastering reading skills. This may impact the materials used for instruction and the time required for the student to master specific skills.*
- B. Is the student expected to meet grade level promotion standards? If the answer is yes, discuss whether the student should participate in a District Intervention Program in order to meet the standards.
- C. What accommodations and/or modifications are necessary to help the student progress in the general curriculum? Accommodations are changes to how the student demonstrates mastery of skills associated with meeting grade level standards. *For example, the student is permitted to do fewer math problems or audiotape a report rather than using a word processor or handwriting.*

Modifications are changes to the content of instruction. For example, a student might learn the major concepts leading to the Revolutionary War and not be expected to learn the historical facts. **Note:** *The ongoing use of modifications may impact meeting promotion and graduation standards.*

- D. What accommodations and/or modifications are necessary for a student in grades 7-12 to complete the District's prescribed course of study and to meet or exceed the proficiency standards necessary for graduation?

Accommodations, modifications, or services in non-academic and extra-curricular activities

Non-academic and extra-curricular activities are those activities provided or sponsored by the school or District available to other students in the school. They do not include other community-based activities. Identify the staff who will be responsible for providing the accommodations, modifications or services. In the IEP meeting notes, document a summary of all information considered by the team in making the decision.

Supplementary aids and services and/or supports for student and/or school personnel

Document accommodations and/or modifications that will be needed for the student to progress toward annual goals, participate in the general curriculum, participate in extra-curricular activities and be educated with other students with disabilities and/or with non-disabled students. Remember **accommodations** do not fundamentally alter or lower

expectations or standards in instructional level, content, or performance criteria whereas **modifications** fundamentally alter or lower expectations on assignment.

VIII. Clarification On Difference Between Accommodations And Modifications

For some students with disabilities, the curriculum can be made more accessible through accommodations. An adaptation is an accommodation if the student can demonstrate mastery of the standard on an assessment. The key concept is: Will the student ultimately master the same material but demonstrate that mastery in alternate ways or with alternate supports? If standards are not fundamentally or substantially altered, then this adaptation is an accommodation to a learning or performance difference.

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 it does not fundamentally alter or lower the standard or expectation of the course, standard or test.

Accommodations are intended to reduce or even eliminate the effects of a student's disability; they do not reduce learning expectations – they provide access. The examples listed below were presented in an archived *Accommodations Guide* provided by the California Department of Education (CDE).

- A. **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. For example, a student with a visual impairment may require or may use Braille.
- B. **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. For example, a student may require an alternative method of responding, such as using a scribe.
- C. **Setting:** Change the location in which an assignment or a test is given or the conditions of the assessment setting. For example, a student may need to work separately from the group.
- D. **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. For example, student may take as long as reasonably need to complete an assessment, including taking portions over several days.

Modifications

An adaptation is a modification if the student will not demonstrate mastery of the standard on an assessment. If routinely utilized, these adaptations are modifications and require individualized goals and assessment. In contrast to the above, 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.

Some examples of modifications to support access to core curriculum are listed below.

- A. Out of grade reading level
- B. Special projects in lieu of assignments
- C. Test items read aloud for entire test
- D. Calculator/multiplication table
- E. Dictations/spell check/grammar check
- F. Accept simplified sentence and paragraph construction
- G. Extend practice time and number of practice opportunities
- H. Accept content drawing in place of written response
- I. Accept that some activities will have different levels of completion
- J. Allow student to type or write from copy using text created from student's dictation
- K. Allow student to type or write from pre-written text
- L. Provide taped books with simplified curriculum context
- M. Allow students to substitute written responses by using CD for creative writing, talking reports, and talking journal entries
- N. Use matching techniques instead of written responses
- O. Provide homework and/or worksheets at appropriate grade level
- P. Provide manipulative in place or worksheet activities –file folder games, spelling cubes, etc.
- Q. Use picture cards to support text comprehension
- R. Allow students to view video based on written works.

In the CDE archived *Accommodations Guide*, it was noted that using modification 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. Provision of modifications may have the unintended consequence of reducing students' opportunities to learn critical content. If students have not had access to critical, assessed content, they may be at risk for not meeting graduation requirements.

A modified program has learning outcomes, which are substantially different from the prescribed curriculum, and specifically selected to meet the student's special needs. For example, a student in Grade 9 in a modified math program might be focused on functional computational skills in the context of handling money and personal budgeting. Or in Language Arts, a student in Grade 5 may be working on recognition of common signs and use of the

phone. In these examples, the learning outcomes are substantially different from those of the curriculum for most other students.

Any decisions to create a modified program for a student need to be done in consultation with IEP team members, including the parent and administrator, in order to follow a procedure that prevents problematic implications. It is crucial to address how and why the decision was made to place the student in question on a modified program. For example, when the gap in achievement becomes so great that the student cannot catch up (if the student has the cognitive capability but lacks some skills), the IEP team may recommend that the student participate in classes to best fit their specific need(s). Such classes are based on standards but may not have the same breadth or depth as general education courses.

IX. ACCOMMODATION/MODIFICATION RESOURCES

Provided on the following pages are the following accommodation/modification checklists and guiding plans to guide curriculum adaptations.

- “Accommodation/Modification Levels of Differentiation” developed by the Banning Unified School District (BUSD) and duplicated with permission.
- “Accommodation/Modification Plan,” by Diana Browning Wright *et. al.*

The source for the Diana Browning Wright materials is available on the Positive Environments, Network of Trainer (PENT) website at:

<http://www.pent.ca.gov/acc/accom.html>

Resource titles are:

Accommodations: Curricular Adaptation Planning:

- Guidelines for Nine Types of Curriculum Adaptations
- Differentiated Instruction for Accommodation/Modification Plan Cover Sheet
- 10 Grid Individual Curriculum Adaptation Plan

Student: _____ **Class** _____ **Teacher** _____

Accommodation/Modification Levels of Differentiation

<p>LEVEL 3</p> <p>Changes the expected standard being taught</p> <p>Needs to be in an IEP</p>	<ol style="list-style-type: none"> 1. Grading to meet individual IEP standards 2. Text to Speech 3. Dictation small group setting 4. Small group testing outside of class 5. Rethink answers with Peer/ Teacher/ Instructional Assistant 6. Grading on ability level 7. Speech to text 8. Dictation to/from teacher 9. Test retake for full credit 10. Small group setting in class with maximum scaffolding 11. Small group modeling outside of class
<p>LEVEL 2</p> <p>For Some</p> <p>Has a SST/504/IEP</p> <p>Needs to be documented as accommodation and and/or intervention</p>	<ol style="list-style-type: none"> 1. Extended Time 2. Shortened Assignments →less stories 3. Copy of notes 4. Small group in class 5. Test questions-read to him 6. Test answers taken orally 7. Calculator 8. Use of Peer Buddy/ Talk out answers 9. Turn in Paper Documents
<p>LEVEL 1</p> <p>For Everyone</p> <p>Does not change the standard being taught or expectation</p>	<ol style="list-style-type: none"> 1. Good teaching, I do, we, you do use of modeling, essays, assignments pre-load vocabulary 2. Preferential seating 3. Re-teaching 4. Use of schedule/planner 5. Use of highlighters/Post-its 6. Use of dictionary 7. Extra wait time 8. Repeated directions 9. Spell check 10. Visual verbal cues 11. Frequent reminders 12. Sentence frames 13. Check-on-task 14. Outlining 15. Color coding 16. Graphic organizer 17. Check with neighbor 18. Open notes for 2 or 3 minutes 19. Window word processing skills drop box 20. Share 21. Text to speech 22. Pair/share 23. Google drive 24. Open book/ Use their own work

ACCOMMODATIONS AND MODIFICATIONS PLAN

Student Name _____

Teacher(s) _____

Class/Subject Area _____

Date this plan was developed _____

This student has an: IEP Plan 504 Plan Student Team Pre-referral Intervention Plan

Other _____

Date of the above plan: _____

The attached plan has been determined to be necessary for this student in order to access the curriculum his/her coursework.

- If for any reason these accommodations/modifications cannot be fully implemented, or prove unsuccessful, please immediately contact the case manager _____ Available (time/dates) _____ Phone/Location _____ for assistance on next steps.
- If you need further assistance in developing accommodations/modifications or determining grading/assessment methods, contact _____ Available _____ Phone/Location _____

DO NOT DISCONTINUE PROVIDING THESE SPECIFIED ADAPTATIONS WITHOUT IEP TEAM, 504 TEAM, SCHOOL TEAM, OR OTHER TEAM SPECIFIC DIRECTIONS.

An IEP or 504 Plan is a legally binding document.

Staff distributing this accommodation/modification plan

This document is necessary to complete the student's IEP.

Please sign and return to: _____ **Deadline:** _____



I understand that _____ will be receiving accommodations in my classroom according to his/her IEP Program. I understand support and assistance on how to grade this student's progress is available to me to assure these accommodations are implemented as specified.

Personnel to contact is: _____ Available times: _____

I understand that a new IEP team meeting with my participation, can/will occur at any point necessary to assure the student's access to appropriate/alternative accommodations if for any reason the currently specified accommodations prove unsuccessful. I understand I can propose alternatives at further IEP meetings.

COMMON CORE STATE STANDARDS

I. Introduction

All students are included in the current focus on standards, assessment and accountability and the push to ensure equal access to grade level content standards. California adopted the Common Core State Standards (CCSS) for English Language Arts (ELA) and Math as the framework for grade level academic expectations. The CCSS articulate rigorous grade-level expectations in the areas of ELA and Math. The goal of the CCSS is develop a set of shared national standards ensuring that students in every state are held to the same level of expectations that students in the world's highest-performing countries are, and that they gain the knowledge and skills that will prepare them for success in postsecondary education as well as global workforce.

To assist students to be college and career ready, the CCSS has anchor standards for both ELA and Math.

The anchor standards for ELA focus on:

- Demonstrating independence;
- Building strong content knowledge;
- Responding to the varying demands of audience;
- Task, purpose, and discipline;
- Comprehending as well as critiquing;
- Value evidence;
- Using technology and digital media strategically and capably; and,
- Coming to understanding about other perspectives and cultures.

The anchor standards for Math focus on:

- Being academically prepared to solve problems involving the major content with connections to the mathematical practice;
- Solving problems involving the additional and supporting content with connections to the mathematical practices;
- Expressing mathematical reasoning by constructing mathematical arguments and critiques;
- Solving real world problems; and,
- Engaging, particularly in modeling practice.

II. Universal Design for Learning

The California Department of Education's (CDE) Common Core State Standards Systems Implementation Plan for California (2013), states,

Fundamental to California's concept of successful instruction is the assurance of universal access for all students – which means that all students must have meaningful access to the content in order to achieve their own highest potential. The CDE continues to strive to

ensure that instructional resources, including those that are developed to support student attainment of the CCSS, are designed to meet the many different needs of California's diverse student population, including gifted students, adult students, English learners, migrant students, and students with disabilities as well as students with disabilities who are English learners.

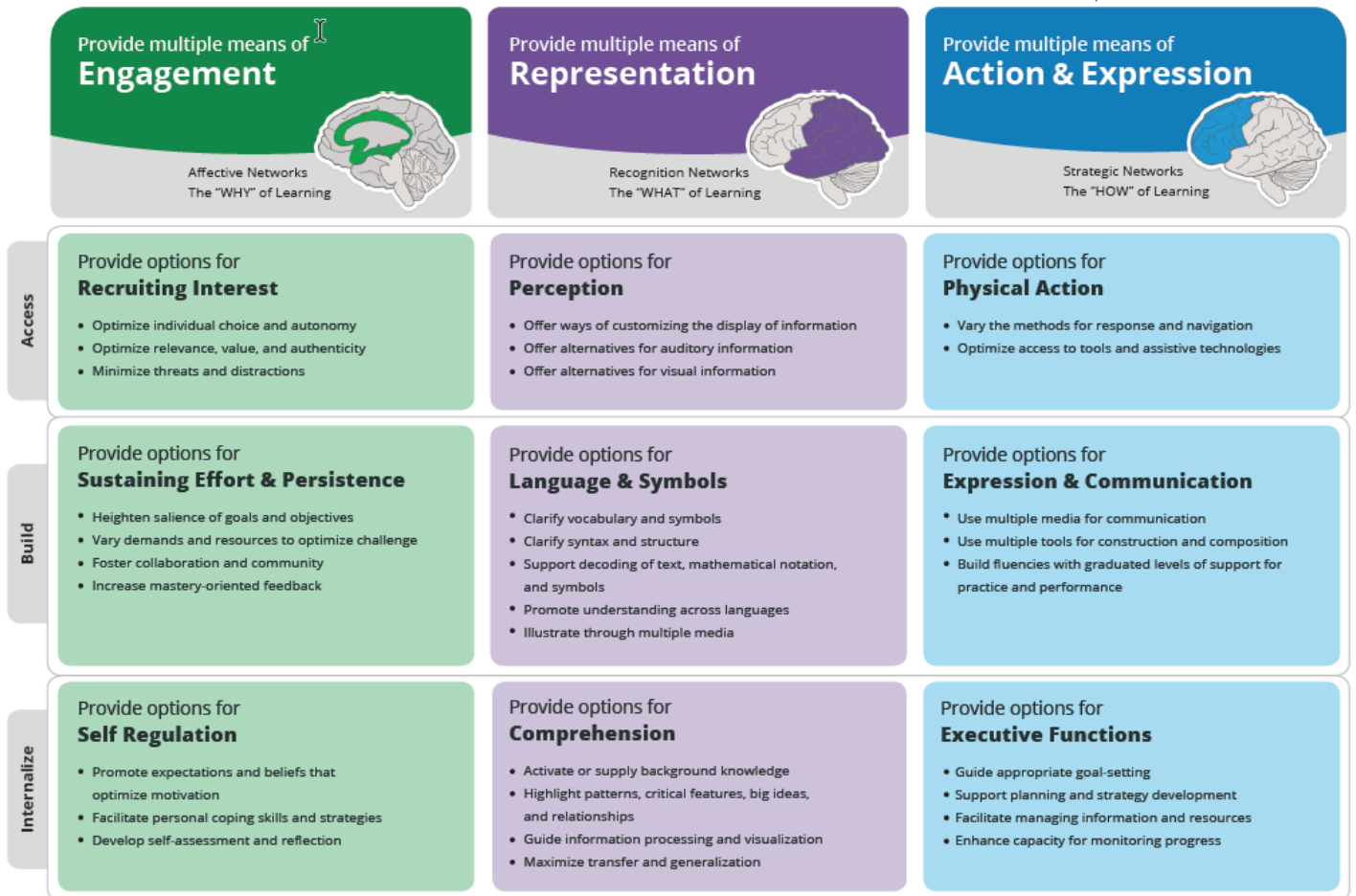
The Common Core State Standards for English Language Arts (2013) further states,

The Common Core State Standards should also be read as allowing the widest possible range of students to participate fully from the outset and as permitting appropriate accommodations to ensure maximum participation by students with special education needs. For example, for students with disabilities reading should allow for the use of Braille, screen-reader technology, or other assistive devices, while writing should include the use of a scribe, computer, or speech-to-text technology. In a similar vein, speaking and listening should be interpreted broadly to include the use of sign language.

Universal Design for Learning (UDL) focuses on designing instruction in such a way to allow accessibility for all learners. The Center for Applied Special Technology (CAST) has developed the principles of UDL based on brain research. Below is an overview to the UDL principles. More information can be found at:

<http://www.cast.org/our-work/about-udl.html#.XPWq1ohKiUk>

The Universal Design for Learning Guidelines



III. Provision of Additional Supports and Services for Students with Disabilities

Students with disabilities are a heterogeneous group with one common characteristic: the presence of disabling conditions that significantly hinder their abilities to benefit from general education (IDEA 34 CFR §300.39, 2004). Therefore, *how* these high standards are taught and assessed is of the utmost importance in reaching this diverse group of students (National Center on Educational Outcomes, 2012). The common core initiative does not address the specifics of writing an individualized education plan (IEP), but the expectation is that students with disabilities are challenged to excel within the general curriculum and be prepared for success in their post-school lives, including college and/or careers.

Note: The National Center on Educational Outcomes (NCEO) is supported through a Cooperative Agreement with the Research to Practice Division, Office of Special Education Programs, United State Department of Education. On the NCEO website, a series of publications are available on standards and accountability related to the Individualized Education Program (IEP). Link to this website is:

https://nceo.info/standards_and_accountability/standards_based_iep

Promoting a culture of high expectations for all students is a fundamental goal of the CCSS. In order to participate with success in the general curriculum, students with disabilities may be provided additional supports and services as appropriate. These may include instructional supports for learning based on the principles of Universal Design for Learning, which fosters student engagement by presenting information in multiple ways and allowing for diverse avenues of action and expression. Instructional accommodations can change materials or procedures that do not change the standard but allow students to learn within the framework of the Common Core. Assistive technology devices and services may also be needed to ensure access to the general education curriculum and CCSS (CDE, November 2013).

Some students with the most significant cognitive disabilities may require substantial supports and accommodations to have meaningful access to certain standards in both instruction and assessment based on their communication and academic needs. These supports should ensure that students receive access to multiple means of learning and opportunities to demonstrate knowledge while also retaining the rigor and high expectations of the CCSS (CDE, November 2013).

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]

There are several sections of the IEP in which these may be documented: special factors, supplementary aids and services, participation in assessments, and/or notes page.

IV. Strategies to Access the Core Curriculum

In order for students with disabilities to meet high academic standards and to fully demonstrate their conceptual and procedural knowledge and skills in mathematics, reading, writing, speaking and listening (English language arts), their instruction must incorporate supports and accommodations, including those components listed below.

- Supports and related services designed to meet the unique needs of these students and to enable their access to the general education curriculum.
- An Individualized Education Program (IEP), which includes annual goals aligned with

and chosen to facilitate their attainment of grade-level academic standards.

- Teachers and specialized instructional support personnel who are prepared and qualified to deliver high quality, evidence-based, individualized instruction and support services.

Supports for one student may not necessarily be the same in all situations and/or content areas. By providing multi-level instruction teachers will find that adapting a lesson may not always be necessary. Differentiating instruction and providing multiple ways to assess allows more flexibility for students to meet the standards and requirements of the class. It is critical that students have opportunities to practice utilizing the strategies selected for assessments within their regular instructional program.

The Council of Chief School Officers (CCSSO) developed a five-step process to guide users in selecting, administering, and evaluating accommodations for instruction and assessment. The following steps were adopted by the California Department of Education (CDE) and are listed below.

1. Expect students with disabilities to achieve grade level academic content standards.
2. Learn about accommodations for instruction and assessment.
3. Select accommodations for instruction and assessment for individual students.
4. Administer accommodations during instruction and assessment.
5. Evaluate and improve use of accommodations.

Only universal tools, designated supports, adaptations, accommodations, and/or modifications (herein referred to as “accommodations”) that have been proven to be successful for a specific student should be written into the student’s IEP. Rather than selecting items from a generic list, team members need to carefully consider and evaluate the effectiveness of the “accommodations.”

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

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 on 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 listed.
5. *Use Information to Brainstorm Accommodations:* At this point IEP team members use the information they have gathered to brainstorm appropriate accommodations.
6. *Decide Which Accommodations to Implement:* Decide on strategies to be used on a trial basis. Teach the student, and possibly the staff member too, 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 and confirmed as effective in mitigating the effects of the student’s disability, staff members need to ensure that they are being administered correctly. This role typically falls to the case manager. First, the case manager needs to know that the student knows how to use the accommodation effectively. This may require instruction, practice, and monitoring. Secondly, staff members working with the student need to understand the purpose and appropriate way to provide the “accommodations” and any specific personalization the student needs. Thirdly, there needs to be accountability that the accommodation is being implemented with fidelity and consistency. This can transpire via ongoing communication and collaboration among team members.

V. Common Core Resources for Special Education

The California Department of Education has posted comprehensive information on “Common Core Resources for Special Education: Resources and Guidelines on the Common Core State Standards (CCSS) for the Special Education Community.” (Last Reviewed: February 17, 2017)

The link to this webpage is:

<http://www.cde.ca.gov/sp/se/cc/>

The content from this webpage is reprinted below.

Educational standards describe what students should know and be able to do in each subject in each grade. In California, the State Board of Education decides on the standards for all students, from kindergarten through high school. Since 2010, 45 states have adopted the same standards for English and math. These standards are called the Common Core State Standards (CCSS). Having the same standards helps all students get a good education, even if they change schools or move to a different state. Teachers, parents, and education experts designed the standards to prepare students for success in college and the workplace. For details regarding the CCSS for all students visit the main CDE *CCSS Web page*.

This site offers resources and guidelines on what the CCSS and the new tests will mean for California students in the Special Education Community.

- California Standards
- Parents and Students
- Other Resources











California Standards

The Common Core State Standards (CCSS) for English and math define what students need to learn at each grade level. They provide a chance to improve access to quality content standards for students with disabilities.


Symposia

- Supporting English Learners with Disabilities Symposium Indexed version [📺](#) (Video; 04:52:01; Posted 17-Feb-2017)
The recorded sessions and materials include presentations on English Learners with disabilities in California.
- Connecting the Dots: How Early Childhood Assessment Informs High Quality Instruction for Infants, Toddlers, and Preschool Children Symposium Indexed version [📺](#) (Video; 05:21:39; Posted 23-Feb-2016)
- Shedding the Light: Creating Inclusive, Accessible, and Equitable Learning Environments for All Students Symposium materials Indexed version [📺](#) (Video; 08:47:03; Posted 16-Jul-2015)
Fourth in a Series of California Common Core State Standards Symposia June 3, 2015.
The recorded sessions and materials include presentations on the California Common Core State Standards as it relates to the Special Education Community.
- Blueprint for Improving Instruction, Accessibility, and Outcomes for All Students Indexed version [📺](#) (Video; 05:31:47; Posted 08-Apr-2015)
Third in a Series of California Common Core State Standards Symposia February 17, 2015. The recorded sessions and materials include presentations on the California Common Core State Standards as it relates to the Special Education Community.
- Aligning IEPs and the California Common Core State Standards: A Deeper Dive Indexed version [📺](#) (Video; 04:08:31; Posted 16-Apr-2014)
- Common Core State Standards Symposium for Special Educators Archived Sessions and Materials Part II March 21, 2014. The recorded sessions and materials include presentations on aligning Individualized Education Programs to the Common Core State Standards.
- Common Core State Standards Symposium for Special Educators Archived Sessions and Materials December 2, 2013 Indexed version [📺](#) (Video; 03:47:26; Posted 10-Jan-2014)
The recorded sessions and materials include presentations on the Common Core State Standards as it relates to the Special Education Community.

Resources

- Special Edge – What New Standards Mean for Students with Disabilities (Winter/Spring 2014)  (PDF; Posted 13-May-2014)
 - School Administrators and Common Core: Supporting Students with Disabilities
 - School Administrators and Common Core: Supporting Students with Disabilities English version  (PDF; Posted 13-May-2014)
 - Administradores de Escuelas y los Estándares Estatales Comunes: Ayudando a los Estudiantes con Discapacidades Versión en Español  (PDF; Posted 15-May-2014)
 - Supporting Students with Disabilities: The Common Core—What Educators Need to Know
 - Supporting Students with Disabilities: The Common Core—What Educators Need to Know English version  (PDF; Posted 13-May-2014)
 - Ayudando a Estudiantes con Discapacidades: Los Estándares Estatales Comunes—Lo que los maestros necesitan saber Versión en Español  (PDF; Posted 15-May-2014)
 - 10 Things Parents Need to Know: The Common Core
 - 10 Things Parents Need to Know: The Common Core English Version  (PDF; Posted 13-May-2014)
 - 10 Cosas que los Padres Necesitan Saber: Los Estándares Estatales Comunes Versión en Español  (PDF; Posted 15-May-2014)
 - 10 Things Students with Disabilities Need to Know: The Common Core
 - 10 Things Students with Disabilities Need to Know: The Common Core English Version  (PDF; Posted 13-May-2014)
 - 10 Cosas que los Estudiantes con Discapacidades Necesitan Saber: Los Estándares Estatales Comunes Versión en Español  (PDF; Posted 15-May-2014)
- CCSS: Implications for students with disabilities  (PDF; 3MB)

This presentation by Martha Thurlow provides contextual information regarding the instruction and assessment of students with disabilities including a description of this student population. It presents information on how the principles of college and career readiness and common core state standards apply to these students. Unique instructional concerns for students with disabilities are addressed including the provision of supports and accommodations and appropriate IEP development. Promising practices in the design of instruction and assessment are also outlined.

- [Special Educators Look to Tie Individual Education Programs \(IEPs\) to CCSS](#) 

This article considers aligning students' individualized education programs (IEPs) to the CCSS.

- [Assessment Principles and Guidelines for ELLs with Disabilities](#)  (PDF)

Written by Martha Thurlow, Kristin Liu, Jenna Ward, and Laurene Christensen, this document looks at improving the validity of assessment results for English language learners with disabilities.

- [Supporting Struggling Readers with Evidence-Based Practices in California](#) 

This website provides resources to focus on providing explicit reading & language arts instruction for ALL students, especially struggling readers.

GRADING GUIDELINES

- I. Applicable Federal and State Perspectives** (Source of the following section adapted from: “Guidelines for Grading Students with Disabilities,” Riverside County Special Education Local Plan Area)

The federal United States Department of Education (USDE) provides a variety of legal perspectives about grading students with disabilities under the following offices: Office for Civil Rights (OCR), the Office of Special Education and Rehabilitative Services (OSERS), the Family Policy Compliance Office, and the California Department of Education (CDE).

Office of Special and Rehabilitative Services (OSERS)

The 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.

Office for Civil Rights (OCR)

The OCR has no enforcement authority under IDEA. However, OCR has enforcement responsibilities under two of the applicable federal laws: Title II of the *Americans with Disabilities Act of 1990* (Title II) 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 elementary and secondary school systems, regardless of federal financial assistance. Section 504, like IDEA, 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 other students.

Section 504 and Title II do not have specific provisions addressing report cards or transcripts. While the laws prohibit public entities from treating persons 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 to others. Among the aid, benefits, and services provided to students and parents are report cards and transcripts.

OCR has stated that the report card may reflect grades based on the student's grade level with respect to students who are not participating in grade level classes but are taught different course content using a modified or alternate education curriculum for a portion of the day. OCR further stated that it would be up to the state education agency and the LEA to establish standards to reflect progress or the level of achievement for different course content. In both cases, grades earned in special education classes or in general education classes with the support of special education services must be included in district wide grade point average standings that lead to a ranking of students by grade point average for honor roll and college scholarship purposes, but that the grades may be weighted based on objective rating criteria. For students with disabilities, the grades and report card for classes with different course content would be based on the state or local standards. Given this, a LEA may distinguish between special education programs and services and general curriculum classes on the report card of a student who has an IEP.

A transcript may indicate that a student took classes with a modified or alternate education curriculum. However, OCR has determined it would be a violation for a student's transcript to indicate that 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. In one investigation, OCR found classes on a transcript, designated as Independent Learning Center, did not violate the Americans with Disabilities Act (ADA) or Section 504 regulations, as they concepts and content than the regular classes.

Family Educational Rights and Privacy Act (FERPA)

The 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, report cards, and transcripts are subject to the protections of FERPA and IDEA.

The Office of Administrative Hearings

Individual case decisions made through the 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:

<https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Services/Decisions#@ViewBag.JumpTo>

California Department of Education (CDE)

The CDE guidance on grading students with disabilities is incorporated on the following pages. This is a reprint from the California Department of Education's. "Promotion, Retention, and Grading: Frequently Asked Questions from the field regarding the promotion, retention, and grading of students with disabilities."

This guidance paper can be found at the link:

<http://www.cde.ca.gov/sp/se/sr/promoretntn.asp>

“Promotion, Retention, and Grading: Frequently Asked Questions from the field regarding the promotion, retention, and grading of students with disabilities.”

PROMOTION AND RETENTION OF STUDENTS WITH DISABILITIES

1. May students with disabilities be retained?

Yes, students with disabilities may be retained; however, careful consideration in the development, implementation, and revision of the student’s individualized education program (IEP) should prevent student failure in most cases.

“Research indicates that neither grade retention nor social promotion (the practice of promoting students with their same age-peers although they have not mastered current grade level content) is likely to enhance a child’s learning. Research and common sense both indicate that simply having a child repeat a grade is unlikely to address the problems a child is experiencing.”

2. Do local governing board-adopted standards for promotion apply to students with disabilities?

Local governing board adopted standards for promotion apply to students with disabilities; however, IEP teams should consider whether the student’s disability adversely impacts the student’s potential for learning or rate of learning. If so, the IEP teams should consider whether accommodations or curricular modifications can minimize this impact.

3. Are individualized promotion standards determined by the location where services are provided to students with disabilities?

No, for example, a student with significant disabilities who spends all or most of the instructional day in general education classrooms learning social or communication skills may have individualized promotion standards. Yet, a student with emotional or behavioral disabilities who spends most or part of the instructional day in a more restrictive environment may be held to the regular promotion standards.

4. What if a student with a disability fails to meet board-adopted or individualized promotion standards?

If a student with a disability fails to meet board-adopted or individualized promotion standards, the IEP team should reconvene immediately to consider the following:

- Is the current IEP for the student's academic, linguistic, social, emotional, and behavioral needs appropriate?
- Is the manner of assessment appropriate, including accommodations and modifications identified in the IEP?
- Were all the services required by the student to make progress in the general education curriculum appropriately identified in the student's IEP?
- Were the linguistic needs of English Learners appropriately identified?
- Did the student receive all the services identified in the IEP?
- Was the assessment conducted consistent with the IEP?
- Was the student's promotion standard appropriate and clarified in the IEP?

5. *What if the IEP was written to consider the student's individualized needs, but the student still failed to meet the promotion standards?*

If the questions in item #5 above were answered positively, but the student still failed to meet the promotion standards, then the student should participate in intensive supplemental instruction developed by the local board pursuant to *Education Code 37252.2 – 37252.8*. The IEP team should document all the supports and related services the student will need to benefit from supplemental instruction.

If after intensive supplemental instruction, the student still does not meet the board-adopted or individualized promotion standards, an IEP meeting should be held to develop an appropriate plan to support student progress.

If the questions in item #4 were answered in the negative, the IEP team should determine why such supports were not provided, develop an alternate plan, amend the IEP, provide intensive supplemental instruction, and consider not retaining the student because the district did not provide the supports and services necessary for the student to benefit from the educational program.

6. *May students with disabilities participate in intensive supplemental instruction pursuant to Education Code 37252.2 – 37252.8 and Extended School Year (ESY) under the Individuals with Disabilities Education Act (IDEA) simultaneously?*

Yes, a student may participate in the two programs simultaneously, but only if the need for supplemental instruction is documented in the student's IEP. In order to receive both services, ESY and supplemental instruction, the IEP must reflect that the student needs to participate in an intensive supplemental instruction program as part of the ESY services necessary for the provision of a free appropriate public education (FAPE). In other words, the student is receiving supplemental instruction in order to meet the standards-based goals of the IEP, and special education and related services will be provided in order for the student to benefit from that instruction.

GRADES, REPORT CARDS, AND TRANSCRIPTS FOR STUDENTS WITH DISABILITIES

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.

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.

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.

REFERENCES *(part of the reprinted CDE "Promotion, Retention, and Grading: Frequently asked questions from the field regarding the promotion, retention, and grading of students with disabilities.")*


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Salend, Spencer J. & Duhaney, Laurel M. Garrick (2002). *Grading Students in Inclusive Settings*. TEACHING Exceptional Children, 34(3) 8-15.

Stump, Colleen Shea (2001). *Grade Retention: The Great Debate*.  San Francisco: Great Schools, INC.

Thompson, Charles L. & Cunningham, Elizabeth K. (2000). *Retention and Social Promotion: Research and Implications for Policy*.  ERIC Digest.

II. Grading Options for Students with Mild to Moderate Disabilities (Source of the following section adapted from: “Guidelines for Grading Students with Disabilities,” Riverside County Special Education Local Plan Area)

Two of the key mandates of the IDEA are that IEP teams are required to make an offer for a free appropriate public education (FAPE) in the least restrictive environment (LRE) for each child with an identified disability. Such decisions have to be individualized based on the unique needs of the child. What makes this a challenge is that there are thirteen different identified disability areas, there are spectrums of disability within the majority of these, and some children are identified with more than one disability. This section addresses the options and key considerations for grading students with mild to moderate disabilities. ^{[[1]]}_{SEP}

Grading Accommodations and Modifications

A student’s grade should not reflect that accommodations have been made. However, a student’s grade may reflect that modifications have been made for that student to access the general education curriculum. 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. Similarly, 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 ^{[[1]]}_{SEP} each case, any modifications to programming, instruction, and grading must be documented in the student’s IEP and be directly related to the student’s disability. School districts cannot modify grades on the basis of the student’s special education status. *To automatically give modified grades to all special education students would be discriminatory and potentially violate Section 504 of the Rehabilitation Act of 1973.* For example, to state that a student cannot get a grade above a “C” because he/she is in special education is illegal.

Report Cards

Report cards are provided to parents to indicate their child's progress or level of achievement in specific classes, course content, or curriculum. Given this purpose, it is permissible under Section 504 and Title II nondiscriminatory regulations for a report card to indicate that a student is receiving special education or related services. A report card for a student with a disability may refer to an IEP or a Section 504 plan in order to report on the student's progress on the specific goals in the IEP or Section 504 plan. However, the mere designation of an IEP or plan, without any meaningful explanation of a student's progress, such as a grade or other evaluative standard established by the LEA, would be inconsistent with IDEA, Section 504 and Title II requirements. *The LEA must provide students with disabilities report cards that are as informative and effective as the report cards provided for students without disabilities. So, there are basically two options available: a report card aligned to grade level standards or one aligned with alternate curriculum standards.*

Grading procedures should be developed that apply to all students, including students with a wide range of disabilities. Grades earned by students with disabilities cannot categorically be disregarded or excluded, even if earned with the support of special education services. Alternate grading systems may be appropriate, if they are available to all students, not just those with disabilities. For example, if a school district wishes to establish standards for eligibility for class ranking or honors, it may do so, as long as it does not arbitrarily discount or exclude grades earned by students with disabilities. One method for doing this is to develop and implement an uncomplicated system of weighted grades. Another possibility is to establish a list of "A-G level courses" which must be completed in order to be eligible for honors, class ranking or participation in certain activities. A school district may not implement a weighted grading system that arbitrarily assigns lower grade weights to all special education courses. Each subject or course must be analyzed separately and assigned a degree of difficulty factor based on its individual contents.

Report Cards Aligned with Grade Level Standards

A report card for a student with a disability can distinguish between special education programs and services and general education curriculum classes as is done with other types of programs and classes (e.g., advanced placement, honor, or remedial classes). A collaborative grading effort between two or more educators is entirely appropriate in circumstances where a student with a disability is in a general education classroom, however it should be discussed in the IEP. The IEP team for a student with a disability who receives special education accommodations in a general education classroom should document any grading accommodations or modifications that may apply, particularly with respect to subjects completed in a general education setting. 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 since accommodations do not generally affect course content or curriculum. However, this type of coding should not be used solely for students with disabilities.

Educational standards describe what students should know and be able to do in each subject in each grade. In California, the State Board of Education decides on the standards for all students, from kindergarten through high school. Since 2010, 45 states have adopted the same standards for English and math. These standards are called the Common Core State Standards (CCSS). Having the same standards helps all students get a good education, even if they change schools or move to a different state. Teachers, parents, and education experts designed the standards to prepare students for success in college and the workplace. For details regarding the CCSS for all students visit the main CCSS Web page. This site offers resources and guidelines on what the CCSS and the new tests will mean for California students in the special education community.

An IEP team may determine how students may best access the Common Core State Standards (CCSS) and when a student should be placed in an alternate curriculum for a specific content area. When a student struggles to meet even the essential grade level standards, at this point the IEP team may decide that the student is no longer performing at grade level standards and should receive a designation on their reporting document that reflects that the student should now receive a modified curriculum and modified grades.

Section 504 and Title II generally require that students with and without disabilities in the same regular education classes in the general education curriculum be graded using the same standards. A student that is unable to meet even partial components of the grade level standards should be provided with curriculum allowing them to progress through below grade level standards beginning at the appropriate grade equivalency. To the extent that a student with a disability is not participating in regular education classes, but is receiving modified course content or is being taught under a modified or alternate curriculum, it would be up to the SELPA and/or LEA to determine the standards to be used to measure the student's progress or level of achievement.

IEP Progress Reports

Learners should be graded on their work performance and progress toward individualized goals for each progress reporting period. The SELPA adopted Special Education Information System (SEIS) is a web-based IEP system that provides a mechanism for teachers and other case managers to create reports on progress toward achieving IEP goals. Staff members can refer to the SEIS website and/or manual for how to complete this process.

Education Code 56345(3) requires that IEP progress reports be provided concurrent with the issuance of report cards [CFR §300.320(a)(3)]. Such requirements are driven by local education agency report card policies. Therefore it is recommended that special education personnel check with their district on these timelines.

Transcripts

The purpose of the transcript is to present an accurate picture of a student's coursework [academic credentials and achievement]. Special notations, including asterisks or other symbols may not appear on a transcript for a student with a disability who received accommodations in general education curriculum classes. Classes may not be identified as special education classes on high school transcripts to indicate the student has had a modified curriculum in a general class. It is much better to use terms such as "basic, level 1, practical, etc." Other permissible transcript "labeling" or designations used may be used if these terms are also used in other courses besides special education. It would be a violation of Section 504 and Title II for a student's transcript to indicate that a student has received special education or a related service, or that the student has a disability.

Modifications or exceptions to the grading scale may be identified on the academic transcript as long as grades and courses of all students, and not just students with disabilities, are similarly treated. For example, a transcript for a student with a disability may indicate receipt of a certificate of attendance or a similar document, rather than a regular diploma under certain circumstances. The school district should take steps to notify each student of what his or her academic transcript contains in the way of such modification notations, if any, before releasing it to another party.

Best Grading Practices for Learners with Mild to Moderate Disabilities

The Council for Exceptional Children (CEC) has identified the following grading practices as generally helpful for learners with disabilities.

- Base report card grades on how well the learner performed on the work assigned, even when that work was at a lower grade level.
- Do not penalize a student with a lower grade because he or she was not assigned grade-level work.
- Make sure all stakeholders understand what level of work was completed to earn a report card grade.
- Avoid using the threat of a low grade as leverage for improving behavior. Grades should never be used in a coercive manner and learners with a history of low or failing grades typically do not respond to such threats.
- Reduce use of zeros for late or missing work as they have a disproportionate effect on overall grades and can undermine a student's motivation. Provide opportunities for full or partial credit for late work.
- Be aware of legal guidance on what can be indicated on a report card versus a transcript.
- Avoid giving a passing or higher grade based on the belief that learners with disabilities "deserve a break" because the general curriculum is so difficult. This strategy fails both

the learner and the school team in that neither is accountable for their roles in the learner's outcomes for the marking period.

- React quickly to low grades and involve the learner and parents in finding a solution. A recommended process involves:
 - Pinpointing assignments producing low grades;
 - Determining when and why the learner is struggling with the assignments;
 - Determining if additional accommodations or supports are appropriate; an,
 - Determining if the learner would benefit from change to lower-level work or alternative elements that may improve performance without lowering expectations.

III. Grading Options for Students with Moderate to Severe Disabilities Included in General Education Classrooms (Source of the following section adapted from: "Guidelines for Grading Students with Disabilities," Riverside County Special Education Local Plan Area)

The IEP team may determine that a student with moderate to severe disabilities is appropriate to be included in one or more general education classrooms. All members of the IEP team who work directly with the student typically share the responsibility for placing, monitoring, and reporting on a student's progress.

Progress Monitoring

Progress monitoring needs to be conducted on all IEP goals and objectives. It is the case manager's responsibility to ensure that data collection is ongoing and that progress is reported to the parents in a timely manner. The case carrier may need to ask the general education teacher, related service provider, and/or paraprofessional working with the student to assist in collecting information. Data may be collected via teacher-made tests; district approved assessment tools, observations, and/or individualized data collection sheets.

Grading Practices

Whether or not an "inclusion student" receives grades is an IEP team decision. If the student will be graded then the team must determine the most appropriate method of grading the student – both on individual assignments and as an overall grade for the course. The team must also decide and document on the IEP if the student will be graded on regular or modified curriculum. Modified curriculum may include partial, out-of-level, substitute, and/or functional skills curriculum.

Individual Class Assignments

Once the IEP team determines what and/or how much content the inclusion student is expected to learn, the team can then make decisions about the method of grading class work. A letter grade could be given for modified assignments to reflect actual achievement. Class work can be graded pass-fail. Another option is to give one grade for effort and another for content. Teachers can agree to changes in weighing the various types of assignments (e.g., tests versus homework). Team members can agree that the student is being included for other than

academic purposes and the general education teacher only need put a check mark or star on the page to show that the student attempted the work or a stamp indicating work was completed with help. Student work can be maintained in a portfolio to be appraised by the team members to establish a grade.

Course Grades

Students educated in an inclusive setting may have a modified grading system if noted on their IEP. Such decisions must be made on an individualized case-by-case basis. ^[1]_[SEP]

Parents should be advised of the consequences of the grading decisions made by the team (e.g., reduction in number of credits). Some examples include:

- *Regular Grades.* Unless noted on the student's IEP, the student is presumed to be assessed and graded as per the school or district policies. Accommodations that do not substantially alter the standards or expectations of the course can be applied but the student is graded by the same criteria as all other students. This may be appropriate in electives like art or choir.
- *Modified Curriculum.* When course content is substantially modified, the student may be graded on his or her achievement in the modified curriculum and this would be reflected in the report card. In high school the student may not receive credit for the courses toward graduation requirements.
- *No Grade.* An inclusion student may be enrolled in a general education class for reasons other than mastery of course content (e.g., social skills, communication) and receive no grade if so indicated in the IEP.
- *Credit / No Credit or Pass/Fail.* An included student who is not expected to master the entire course requirements may be graded credit/no credit or pass/fail. In such cases the general education teacher would need to establish the minimum requirements that would reflect a passing grade for all students. If the student meets the minimum number of standards, he or she would pass or get credit for the course.
- *Alternate Report Card.* If an alternate report card is developed by the local education agency it might be appropriate for use with students who are included in general education but working far below academic grade level.
- *Written Progress Report.* A Progress toward IEP Goals Report may replace the standard report card.

IV. Other Resources on Grading

- “Questions and Answers on Report Cards and Transcripts for Students with Disabilities Attending Public Elementary and Secondary Schools” Office of Civil Right (OCR), October 2018
- “Grading Policies for Students with Disabilities”
TECHNICAL ASSISTANCE PAPER 312775 April 2016 – BUREAU OF EXCEPTIONAL EDUCATION AND STUDENT SERVICES – Tallahassee Florida
- “Individualizing a Grading System for a Student with LD and an IEP”
Written by Great Schools! Staff, May 20, 2015
- “Grading Students with Disabilities”
Association for Supervision and Curriculum Development (ASCD)
Educational Leadership October 2003, Volume 61, Number 2
Dennis D. Munk and William D. Bursuck
- “Standards-Based Grading and Reporting: A Model for Special Education”
(www.redorbit.com), By Jung, Lee Ann Guskey, Thomas R and Sam Savage
- “Legal Requirements on Grading, Report Cards, and Class Ranking for IDEA Students”
TAESE (Technical Assistance for Excellence in Special Education) Webinar—May 19, 2016
Presented by Jose Martín, Attorney Richards Lindsay & Martín, L.L.P. Austin, Texas

Link to the webinar:

<https://doe.sd.gov/sped/documents/GRRanking.pdf>

- “Guidelines for Grading Students with Disabilities,” Riverside County Special Education Local Plan Area (SELPA)

Link to website:

<https://www.rcselpa.org/resources/resources/Guidelines%20for%20Grading%20Students%20with%20Disabilities%20R%205.16.pdf>

Section H: English Learners with Disabilities

- Supports within a Multi-Tiered System of Support Framework
- Linguistically Appropriate Assessment and Goal-Writing
- The Legal Standards and Protections
- Identification and Placement of English Learners
- Reclassification Information
- Resources

ENGLISH LEARNERS WITH DISABILITIES

I. Introduction

This section provides information and resources regarding best practices and regulatory requirements for identifying, providing services, and reclassifying English Learners (EL) with disabilities.

II. Supports for English Learners within a Multi-Tiered System of Supports Framework

California's Multi-Tiered System of Supports (MTSS) model establishes an integrated and comprehensive framework focused on quality teaching and learning for all students in all content areas, which includes comprehensive English language development (ELD) for English learners, along with any necessary supplemental and intensive instruction students may need to be successful. Created to meet the needs of all students, this framework unifies and amplifies the range of support systems for English learners, students with disabilities, students who are identified as gifted and talented, and students who are academically underperforming and at risk of not succeeding. A key notion of the MTSS model is that all students can be academically successful and that instruction and support systems must be designed to be accessible to all learners.

Because the MTSS framework is designed to support all students, an important question regarding English learners is this: What must be explicitly leveraged in California's MTSS framework to specifically support English learners? This chapter addresses this question and in doing so provides guidance and a systematic pre-referral process for avoiding over-identification and under-identification of English learners for special education services.

Student-centered learning and close attention to addressing individualized student needs, beginning with the core instruction¹ in which all students are enrolled, is at the heart of California's MTSS. For this reason, the MTSS aligns all systems necessary for all students' academic, behavioral, and social-emotional supports with an understanding that these supports are interrelated and work together to promote student academic achievement and overall well-being.

Implementing the MTSS framework in California schools involves using comprehensive and systematic processes to identify and address student needs to facilitate each individual student's highest level of achievement. Collaboration of teaching teams, including program specialists and English specialists to provide effective services to students is vital, as is the collaboration of site and LEA leadership teams in designing, implementing, and cultivating the needed systems for student success. All decisions in the MTSS framework are data-driven, informed by evidence and research, and based upon multiple assessment methods for ascertaining student knowledge and skills. Although this chapter primarily addresses guidance for teachers and school and LEA administrators, the MTSS encompasses a whole systems approach and involves all participants in the LEA, including students, families, communities, and policymakers. In the MTSS framework, "all" means "all."

In the MTSS framework, evidence-based practice is essential. Careful selection and effective implementation of evidence-based practices that have been shown to be effective for English learners is critical in all tiers of instruction. Evidence-based core instruction, supplemental supports, and interventions for English learners must address their particular academic, linguistic, social-emotional, and behavioral learning needs, which will vary by the range of diverse groups of English learners (e.g., immigrant, migratory, long-term, newcomer). Culturally and linguistically relevant, responsive, and sustaining practices are paramount.

These high quality multi-tiered instruction and interventions are based on state guidance in California’s standards and curriculum frameworks, including the *CA ELD Standards and ELA/ELD Framework*. Delivered through high quality instruction in a single schoolwide, standards-based accountability system, the tiered system is driven by data-based and evidence-informed decision-making. In an effective and inclusive MTSS framework, students of color, ethnically diverse students, English learners, students living in poverty, and students with disabilities are expected to succeed because they are provided with equitable opportunities to learn.

When English learners are not making progress in academic achievement, teams of educators must ask whether the students’ instruction, which includes comprehensive ELD, has been evidence-based, standards-aligned, and culturally and linguistically appropriate and whether it has been of sufficient quality. This is important to avoid assigning Tier II and Tier III interventions or referral to special education services when what is happening is a lack of appropriate instruction for English learners. Some English learners will be identified, through a systematic process described in this guide, as having a disability or multiple disabilities and will need special education services. It is through a clear system of tiered supports and pre-referral processes that it can be ascertained if they will need these services. The interventions provided within the MTSS framework are recognized as pre-referral core instruction and interventions.

(Source: California Practitioners’ Guide for Educating English Learners with Disabilities, California Department of Education, 2019.)

III. Linguistically and Culturally Sensitive Assessments

The California Practitioners’ Guide for Educating English Learners with Disabilities contains comprehensive guidance on the proper assessment considerations across a wide variety of topics, including:

- Determining a Student’s Primary Language
- Determining Language of Assessment
- Assessor Sensitivity to Linguistics and Culture
- Recommended Use of Interpreters for Bilingual Assessments
- Language of Assessment Options
- Academic Assessment Options for English Learners
- Multiple Measures of Student Progress

Assessments must be “provided and administered in the language and form most likely to provide accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to provide or administer” (*EC 56320[b][1]*) (accessible at: <https://bit.ly/2V1FROH>). Determining how best to assess an

English learner to come to valid and reliable assessment results is not an easy task. Language acquisition must be taken into account when making decisions about how best to assess an English learner to avoid language barriers or cultural bias.

Multidisciplinary team members assessing English learners determine, through multiple measures, which language used during assessment will produce the most reliable result. They review and evaluate the English interpersonal communication skills (or document the current results of the ELP statewide assessment such as ELPAC) and include data from formal and informal assessments that measure the literacy-related aspects of language to determine the best language for assessment. For example, team members informally assess the language development of English learners by analyzing the student's ability to understand teacher-talk or reading comprehension through re-tell assessments. Unless these skills are analyzed and measured, teachers may attribute low achievement to learning disabilities when they may, in fact, be related to lack of academic language proficiency.

Source: California Practitioners' Guide for Educating English Learners with Disabilities, California Department of Education, 2019, at

<https://www.cde.ca.gov/sp/se/ac/documents/ab2785guide.pdf>

IV. Linguistically Appropriate IEP Goals for English Learners with Disabilities

To properly meet the complex needs of students identified as English learners with disabilities, education professionals from various disciplines must effectively collaborate and involve families in the IEP process. This requires that general education teachers, special educators, and English learner specialists consult and collaborate to design and implement effective individualized education programs (IEPs) and services for English learners with disabilities to ensure optimal educational outcomes for this diverse group of learners. This section includes information on development of linguistically appropriate IEPs, required IEP components for the English learner student and other legal requirements related to the English learner's IEP.

The IEP team must “consider the language needs of the student as these needs relate to the student's IEP” (*EC 56341.1[b][2]*) (accessible at: <https://bit.ly/2UirlxH>). Specifically, the IEP must include “linguistically appropriate goals, objectives, programs and services” as required by *EC 56345(b)(2)* (accessible at: <https://bit.ly/2UEfWof>).

In the development of IEP goals, 5 *CCR 3001(m)* (accessible at: <https://bit.ly/2IBU8La>) identifies “linguistically appropriate goals, objectives, and programs” to mean:

- a) activities which lead to the development of English language proficiency;
- b) instructional systems either at the elementary or secondary level which meet the language development needs of the English learner; and
- c) for individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the IEP team, is severely limited, the IEP team may determine that instruction may be provided through a language acquisition program, including a program provided in the individual's primary language. The IEP team must periodically, but not less than annually, reconsider the individual's ability to receive instruction in the English language.

IEP teams might find the following resources helpful in writing linguistically appropriate goals:

- a) the main CDE web page for standards-aligned IEPs which is accessible at: <https://bit.ly/2XjIs3R>
- b) a seven-step process for creating standards-based IEPs from the National Associate of State Directors of Special Education (NASDSE) is accessible at: <http://bit.ly/2Ls4bpo> (While not specific to English learners, the process described can be modified to meet the needs of English learners.)

Source: California Practitioners' Guide for Educating English Learners with Disabilities, California Department of Education, 2019, at

<https://www.cde.ca.gov/sp/se/ac/documents/ab2785guide.pdf>

V. Review of Laws & Regulations Governing Instruction for English Learners

State and federal law require that all students whose primary language is other than English be assessed for English Language Proficiency (ELP). The legal basis for requiring English proficiency testing is that all students have the right to an equal and appropriate education, and any English language limitations (left unidentified and/or unaddressed) could preclude a student from accessing that right.

State law (California Education Code [EC] sections 313 and 60810) and federal law (Titles I and III of the Elementary and Secondary Education Act [ESEA]) require that LEAs administer a state test of ELP and develop Annual Measurable Achievement Objectives (AMAOs) for:

- (1) Newly enrolled students whose primary language is not English as an Initial Assessment (IA); and,
- (2) Students who are English Learners as an Annual Assessment (AA). For California's public school students, this test is the English Language Proficiency Assessments for California (ELPAC).

The English Language Proficiency Assessments for California (ELPAC) is the required state test for English language proficiency (ELP) that must be given to students whose primary language is a language other than English. State and federal law require that local educational agencies administer a state test of ELP to eligible students in kindergarten through grade twelve. The California Department of Education (CDE) transitioned from the California English Language Development Test (CELDT) to the ELPAC as the state ELP assessment in 2018. The ELPAC is aligned with the 2012 California English Language Development Standards. It consists of two separate ELP assessments: one for the initial identification of students as English learners (ELs), and a second for the annual summative assessment to measure a student's progress in learning English and to identify the student's level of ELP.

The Initial ELPAC has one purpose:

- To identify students who are ELs or are initial fluent English proficient (IFEP)

The Summative ELPAC has two purposes:

- To determine the level of ELP of EL students
- To assess the progress of EL students in acquiring the skills of listening, speaking, reading, and writing in English

All students in kindergarten through grade twelve (K–12), ages three through 1 twenty-one, whose primary language is a language other than English must take the Initial ELPAC to determine whether they are ELs. This must be done within 30 calendar days after they are first enrolled in a California public school or 60 calendar days prior to instruction, but not before July 1, per ELPAC regulations. The Summative ELPAC must be given annually to students identified as ELs until they are reclassified to fluent English proficient (RFEP), and is usually administered in a testing window running from February through May.

Source: “2019-20 English Language Proficiency Assessments for California: Information Guide,” California Department of Education, 2019, or at:

<https://www.cde.ca.gov/ta/tg/ep/documents/elpacinfoguide19.pdf>

Other Federal Regulations and Case Law Related to ELs in Special Education

- Civil Rights Act (1964)
- 1970 – It is a violation to exclude children from effective participation in school because they can’t understand English.
- *Diana vs. State Board of Education* (1970) – One cannot identify a child as mentally retarded based on IQ tests administered in English. The child must be assessed in his/her first language and in English or use nonverbal IQ tests.
- *Larry P. v. Riles* – One cannot use I.Q. tests - thus, tests must be validated for use with the specific populations.
- Individuals with Disabilities Education Act (IDEA) (1975); 1997 & 2004 amendments – ELs are not eligible for services if their learning problems are primarily the result of environmental, cultural, or economic disadvantage. Evaluation and placement procedures must be conducted in the child’s native language, unless it is not feasible to do so (example – a child who has been in the American school system for 12 years). Parents must understand proceedings of IEP meetings to provide informed consent. They must know they have the right to an interpreter at no cost. The multidisciplinary team must consider the language needs of ELs when developing, reviewing or revising IEPs. (IDEA 2004)

VI. American Sign Language

For purposes of ELPAC testing and Title III services, American Sign Language (ASL), in and of itself, is not considered a “language other than English,” according to the US Department of Education (ED). Students who use ASL for communication and have not been exposed to any language other than English should not be considered for ELPAC testing. For a student who uses ASL for communication because of deafness or hearing impairment, and for whom there is another primary language other than English indicated on the student’s HLS, the individualized education program (IEP) team should consider (1) ELPAC testing with

appropriate universal tools, designated supports, and accommodations; or (2) alternate assessment(s).

Hearing students of deaf parents who use ASL as the primary means to communicate upon entering school and who have been exposed to a language other than English by another adult, such as a grandparent or a caregiver, may be considered for ELPAC testing. The LEA may consider ELPAC testing in addition to other appropriate language assessments to determine whether the child may benefit educationally from English language development (ELD) instruction. The LEA should base its decision to administer the ELPAC on whether the student has been exposed to another language other than English, not on the basis of whether the hearing student of deaf parents uses ASL in the home.

VII. Identification of English Learners (ELs)

Step 1. Determination of Students' Primary Language

In accordance with EC Section 60810(d), one of the purposes of the ELPAC is to identify students who are ELs. The term "English learner," when used with respect to an individual, means an individual:

- (A) who is aged 3 through 21;
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C) (i) who was not born in the United States or whose native language is a language other than English;
 - (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
 - (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
 - (i) the ability to meet the challenging State academic standards;
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society. (ESEA Section 8101[20])

For all students in K–12, upon first enrollment in a California public school, the LEA uses a standardized procedure to determine a student's primary language. This procedure begins with a Home Language Survey (HLS), which is completed once by the parent or guardian at the time the student is initially enrolled in a California public school. The HLS should not be readministered every year nor readministered if a student enrolls in a new LEA.

If the HLS is completed in error, the parent or guardian may make a request to change it prior to the assessment. However, once a student is identified as an EL on the basis of the results of the Initial ELPAC, and the student has been administered the Summative ELPAC, changing the HLS will not change the student's identification.

A sample HLS is available on the CDE English Learner Forms web page at:

<https://www.cde.ca.gov/ta/cr/elforms.asp>

The State Board of Education (SBE) approved the following guidelines for interpreting the sample survey:

- If a language other than English is indicated on any of the first three questions, the student should be tested with the Initial ELPAC.
- If a language other than English is indicated on the fourth question, the student may be tested at the LEA's discretion.

Step 2. Assessment of English Language Proficiency

Kindergarten through Grade Twelve LEAs will use the LST, found in TOMS, to calculate the official Initial ELPAC score. The Initial ELPAC has three performance level descriptors. Please refer to page 30 for the full descriptions of the performance levels.

- IFEP
- Intermediate EL
- Novice EL

Students in K–12 are considered to have met the ELPAC criterion for English proficiency when the Overall score is in the IFEP range.

(Source: “2019-20 English Language Proficiency Assessments for California,” California Department of Education, 2019.)

VIII. Decision Guide for Placement of English Learners

LEAs administer an HLS to all students enrolled for the first time in a California public school.

- If the survey results indicate English as the primary language, no further testing is required. A regular instructional program is implemented.
 - If the student struggles to perform in the classroom later in the student's educational career, a correction process can be initiated as laid out on page 16.
- If the survey results indicate a primary language other than English, an Initial ELPAC administration is required.
- If a parent/guardian disagrees with the results of the HLS, a correction of the HLS can be pursued prior to the administration of the Initial ELPAC assessment.

The Initial ELPAC is administered for the purpose of classifying students, resulting in one of two general classifications: IFEP or EL.

- In the event of IFEP classification, the student is considered to have met the ELPAC criterion for English proficiency, and no further testing is required. A regular instructional program is implemented.
 - If the student struggles to perform in the classroom later in the student's educational career or if the LEA receives a contradictory score as part of the Rotating Score Validation Process and determines that the student should be

- classified as an EL, the LEA can use this as part of evidence for a correction process to be initiated.
- In the event of EL classification, an appropriate EL program is implemented. The student's progress is assessed annually with the Summative ELPAC.
 - A correction of classification can occur if the student was timid during the Initial ELPAC administration and is classified as an EL, but further evidence is collected that demonstrates the student's ability to listen, speak, read, and write in English in the classroom. This correction of classification process must be completed before the administration of the Summative ELPAC.
 - If the Initial ELPAC is administered to the incorrect student, a correction process is initiated, and no record of scores shall be maintained.
 - If a parent/guardian or a certificated employee of the LEA disagrees with the results of the Initial ELPAC, a review of the classification can be pursued prior to the administration of the Summative ELPAC assessment (if applicable). The Summative ELPAC is administered to ELs annually until reclassification criteria are met and the student is classified as RFEP.
 - In the event of RFEP classification, a regular instructional program is implemented, and the student's progress is monitored for four years following reclassification.

IX. Federal Guidance for Learners with Disabilities

In accordance with the ED guidance issued in July 2014, the ED requires that all ELs with disabilities participate in the state's ELP assessment. Federal law requires that all ELs with disabilities participate in the state ELP assessment in the following ways, as determined by the IEP team:

- In the regular state ELP assessment without universal tools, designated supports, and accommodations
 - In the regular state ELP assessment with universal tools, designated supports, and accommodations determined by the IEP team or Section 504 team
 - In an alternate assessment aligned with the state's ELD standards, if the IEP team determines that the student is unable to participate in the regular ELP assessment with or without universal tools, designated supports, and accommodations
- Role of the IEP Team The IEP team is an essential component in establishing the appropriate academic and functional goals, determining the specifically designed instructional program to meet the unique needs of all ELs with disabilities, and making decisions about how students can participate in the state ELP assessment. In accordance with the new ED guidance, the IEP team is responsible for:
- Making decisions about the content of a student's IEP, including whether a student must take a regular state assessment (in this case, the ELP assessment), with or without appropriate universal tools, designated supports and/or accommodations, or an alternate assessment in lieu of the regular ELP assessment (ED, July 2014, FAQ #4).
 - Developing an IEP for each student with a disability, including each EL with a disability, at an IEP team meeting, which includes school officials and the child's parents/guardians. The Individuals with Disabilities Education Act (IDEA) regulation in Code of Federal Regulations, Title 34, (34 CFR) Section 300.321(a) specifies the participants to be included on each child's IEP team.

It is essential that IEP teams for ELs with disabilities include persons with expertise in English language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between English proficiency development and a disability (ED, July 2014, FAQ #5).

- Ensuring that ELs' parents or guardians understand and are able to meaningfully participate in IEP team meetings at which the child's participation in the annual state ELP assessment is discussed. If a parent whose primary language is other than English is participating in IEP meetings, the IDEA regulations require each public agency to take whatever action necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter (34 CFR Section 300.322[e]). When parents themselves are ELs, Title VI of the Civil Rights Act of 1964 also requires that the LEA effectively communicate with parents in a manner and form they can understand, such as by providing free interpretation and/or translation services (ED, July 2014, FAQ #6).
- Ensuring that all ELs, including those with disabilities, participate in the annual state ELP assessment, with or without universal tools, designated supports, and accommodations or take an appropriate, locally determined alternate assessment, if necessary (ESSA Section 1119[b][7] and IDEA Section 612[a][16][A]). An IEP team cannot determine that a particular EL with a disability should not participate in the annual state ELP assessment (ED, July 2014, FAQ #7). However, IEP teams can make the determination, on a student-by-student basis, that an alternate assessment to the ELP be administered.

According to 5 CCR sections 11511 and 11516 through 11516.7 (Division 1, Chapter 11, Subchapter 7.5) as well as EC Section 313, the initial and summative administration of the ELPAC are the responsibilities of the LEA. Most students with disabilities are able to participate effectively on the ELPAC. For students whose disabilities preclude them from participating in one or more domains of the ELPAC, their IEP teams may recommend accommodations or an alternate assessment (see EC Section 56385, 5 CCR 11516.5 through 11516.7). Approved universal tools, designated supports, and accommodations are listed in Matrix Four: Universal Tools, Designated Supports, and Accommodations for the ELPAC, which is found on the CDE website at:

<https://www.cde.ca.gov/ta/tg/ep/documents/elpacmatrix4.docx>

Matrix Four will be updated with additional accessibility resources in the coming year as we transition to a computer-based assessment.

In accordance with 34 CFR sections 300.304 through 300.305, initial identification for determining whether a student is a student with a disability takes into consideration existing data, which includes LEA and statewide assessments. For those who participate in programs for students with disabilities, the LEA may be a school district, an independent charter school, the county office of education, or a state special school.

When an EL with disabilities is not able to take the ELPAC (the entire test or any portion of it), that information is shared at the IEP team meeting. IEP team members may determine

that alternate assessments are appropriate and necessary. Per the ED, the alternate assessment must be aligned with the ELD Standards. The results of alternate assessments and/or the ELPAC are part of the current levels of performance in the IEP. The scores or performance levels are a part of the information considered by the team to develop linguistically appropriate goals (EC sections 56341.1[b] and 56345[b][2]).

Because such alternate means of assessments fundamentally alter what the ELPAC measures, students receive the lowest obtainable scale score (LOSS) on each domain affected. Caution should be used when interpreting results because the LOSS on one or more domains may lower the Overall performance level on the ELPAC. The LOSS on the ELPAC will be used to calculate the ELPI for Title I accountability purposes. If the student is not reclassified, the LOSS will be entered as the “Most Recent Previous Scale Score(s)” at the next year’s administration of the ELPAC.

Because of the unique nature of individual students’ disabilities, the CDE does not make specific recommendations as to which alternate assessment instruments to use. However, the appropriate alternate assessment must be identified annually in a student’s IEP. The LEA must ensure that the IEP team includes an individual who can interpret the instructional implications of evaluation results (e.g., an ELD specialist to interpret ELPAC results) (34 CFR Section 300.321[a][5]). Identified ELs with disabilities must take the ELPAC with any accommodations specified in their IEP or take appropriate alternate assessments, as documented in their IEP, every year until they are reclassified.

When a student’s IEP or Section 504 plan specifies that the student has a disability for which there are no appropriate accommodations for assessment in one or more of the Speaking, Listening, Reading, and Writing domains, the student shall be assessed in the remaining domains in which it is possible to assess the student, per 34 CFR Section 200.6. A student may be assigned an overall score only if assessed in both oral and written language. To be considered as having been assessed in oral language, the student must have been assessed in either Speaking or Listening. To be considered as having been assessed in written language, the student must have been assessed in either Reading or Writing.

X. Reclassification Criteria

The reclassification criteria set forth in California Education Code (EC) Section 313 and California Code of Regulations, Title 5 (5 CCR), Section 11303 remain unchanged. Pursuant to 5 CCR Section 11308 (c)(6), any local reclassification procedures must be reviewed by the school district advisory committee on programs and services for English learners (ELs). An English learner with a disability may be unable to meet a particular reclassification criterion due to the specific nature of his disability. For example, an English learner with dyslexia may continue to be classified as an English learner due to less than proficient ELPAC scores in reading. LEAs should continue using the following four criteria to establish reclassification policies and procedures (considerations for ELs with disabilities are provided for each):

Criterion One: Assessment of ELP (using an objective assessment instrument, including, but not limited to, the state test of English language development [ELD])

- (a) Assessment of ELP using an objective assessment, including but not limited to the ELPAC, is one of four criteria, in state law per *EC 313(f)*, to be used by LEAs in determining whether an English learner should be reclassified as RFEP. The IEP team can use the scores from an alternate assessment aligned with the state *2012 CA ELD Standards* for reclassification purposes. An alternate assessment may be used to measure the student's ELP on any or all four domains in which the student cannot be assessed using the ELPAC.
- (b) For purposes of Title I accountability requirements, a student assessed with a locally determined alternate assessment, will receive the lowest obtainable scale score (LOSS) on the ELPAC for each domain tested with an alternate assessment. The IEP team, however, may use results from the alternate assessment in conjunction with the other required criteria (i.e., teacher evaluation, parental opinion and consultation, and the student's scores on an assessment of basic skills) to determine a student's eligibility for reclassification. Once the Alternate ELPAC is operational, there will be criteria established for reclassification based on a student's performance.

Criterion Two: Teacher evaluation (including, but not limited to, a review of the student's curriculum mastery)

- (a) The student's academic performance information, that is based on the student's IEP goals for academic performance and ELD, should be used for reclassification consideration.

Criterion Three: Parent opinion and consultation

- (a) The parent or guardian should be encouraged to be a participant on the IEP team and in understanding and making a decision on reclassification.

Criterion Four: Comparison of student performance in basic skills (compared against an empirically established range of performance in basic skills based on the performance of English proficient students of the same age).

- (a) The IEP team should specify in the student's IEP an assessment of basic skills to meet the guidelines for reclassification (e.g., the California Alternate Assessment for English language arts). The IEP team may consider using other assessments that are valid and reliable and designed to compare the basic skills of English learners with disabilities to primary speakers of English with similar disabilities to determine whether the English learner with disabilities has sufficiently mastered the basic skills for reclassification consideration.
- (b) The CDE cannot make specific recommendations of alternate assessment instruments because it is the responsibility of the IEP team to gather pertinent information regarding the student and assessment needs specific to that student. The IEP team may use this comprehensive approach to make decisions regarding program supports and reclassification that will allow the student to make maximum progress, given the student's capacities.

The CDE has provided guidance to LEAs for using Smarter Balanced Summative Assessment results as a local measure of Criterion 4. LEAs also have been advised that local assessments can be used to identify ELs who meet academic measures indicating they are ready to be reclassified. This guidance can be found in "Updated Reclassification Guidance for 2018–19," on the CDE Reclassification web page at: <https://www.cde.ca.gov/sp/el/rd/>.

XI. RESOURCES:

- California Practitioners' Guide for Educating English Learners with Disabilities, California Department of Education, 2019 “English Language Proficiency Assessment for California (ELPAC) Information Guide,” by the California Department of Education
- “Meeting the Needs of English Learners with Disabilities Resource Book 2017,” by Dr. Jarice Butterfield, Santa Barbara County SELPA, on Behalf of the SELPA Administrators of California Association – link to Resource Book:
https://www.sbcselpa.org/sites/default/files/2018-10/English_Learners_Resource_Book.pdf
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 with disabilities known to date in the State of California. It is distributed with the understanding that neither the authors nor the SELPA Administrators of California 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.
- Other Santa Barbara County Special Education Local Plan Area English Learners (ELs) website links:
 - Activity #2 Participant Worksheet
 - Bilingual Assessment Tools
 - CDE CELDT Administration
 - CDE CELDT Participation for Alternate Assessments for ELs Checklist
 - CDE Role of the IEP Team
 - CELDT Information Guide 2016-17 2017-18
 - Comparison of Language Differences vs. Disability Chart
 - Educational Resources for ELs
 - EL Assessment Parent Interview Form – English (Fillable)
 - EL Assessment Parent Interview Form – Spanish (Fillable)
 - EL Learning Issues List – When to Refer for SPED
 - EL/SPED Reclassification Worksheet
 - EL IEP Checklist
 - EL Pre Referral Checklist 2016
 - EL Training PowerPoint 2016-2017
 - ELD Standards Proficiency Level Descriptors
 - English-Spanish Glossary – IEP Terms
 - Potential Speech & Language Bilingual Assessment Tools

Section I: Guidelines for Interim Placements, Permits, and Residency

- Interim Placement Procedures
- Residency, Educational Rights, and Provision of Special Education Services
- Ways in Which Responsibility of an LEA is Established

INTERIM PLACEMENT PROCEDURES

II. Transfers to District from District Outside of the SELPA

If the child has an Individualized Education Program (IEP) and transfers into a district from a district not operating programs under the same Special Education Local Plan Area (SELPA), in which he or she was last enrolled in a special education program within the same academic year, the Local Educational Agency (LEA) shall provide the pupil with a Free Appropriate Public Education (FAPE), 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.

III. Transfers from District to District within the same SELPA

If the child has an IEP and transfers into a district from a district operating under the SELPA 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.

IV. 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 (CA Education Code Section 56325).

Transfer to Another CA SELPA	Transfer within CA SELPA	Transfer from Another State into CA
Provide FAPE with “comparable” services from previously approved IEP for up to 30 days.	Continue, without delay, to provide “comparable” services to the existing approved IEP.	Provide FAPE with “comparable” services from previously approved IEP
After 30 days: <ul style="list-style-type: none"> • Adopt prior IEP or • Develop new IEP 	May agree to develop a new IEP.	Prior IEP is implemented until a new IEP is developed.

V. Transitions from an Elementary School District to a High School District within the same SELPA

When a special education student is to enroll in a high school district from an elementary district, the elementary district shall invite the high school to the transition IEP meeting. The high school representative will specify the appropriate high school placement. If a high school representative does not participate in the IEP meeting prior to the transfer, the elementary district shall notify the high school of each student and their respective special education needs. Upon the students' enrollment in the high school, the high school shall make an interim placement or immediately convene an IEP meeting to develop, adopt and implement a new IEP for each entering student.

VI. Student Residing in Residential Nonpublic Schools

If a student residing in a residential nonpublic school transfers to a district in another local plan area (and the placement is not eligible for funding under EC 56836.16) the district that made the placement is responsible for funding the current placement for the remainder of the school year including the extended school year. If a student was placed in a residential nonpublic school and the parent moves during the school year to a school district in another local plan area, the district that placed the student will continue to pay for the nonpublic school placement for the remainder of the school year, including the extended school year.

**RESIDENCY, EDUCATIONAL RIGHTS,
AND PROVISION OF SPECIAL EDUCATION SERVICES**

I. Overview

The Individuals with Disabilities Education Act (IDEA) requires that local education agencies (LEAs) consider the procedural safeguards afforded to parents of students with disabilities. The safeguards are intended to give parents a meaningful opportunity to participate in the decision-making process of their child's education. Most students with disabilities reside at home with their parents and utilize the standard enrollment procedures for the district in which they reside. There are other instances when residency, school setting, holder of educational rights, and/or transfer may change the enrollment and/or provision of special education responsibilities. In such cases the definition of a LEA becomes important as it can refer to a school district, county office of education, or charter school authorized as a LEA for special education.

The LEA responsible for the provision of special education services may change if a student is (1) attending based upon an approved inter-district transfer under district of choice or employment; (2) homeless; (3) an emancipated minor; (4) living with someone with a caregiver affidavit on file; (5) placed in a hospital, (6) in residential placement per an individualized education program (IEP); (7) placed in a foster home or licensed children's institution; (8) residing in multiple residences due to joint custody, (9) placement in juvenile hall; and/or (10) an eligible youth incarcerated in a county jail or prison.

A. Residency

Residency is defined as the place one remains when not called elsewhere for labor or other special or temporary purposes. There can only be one residence. Residence cannot be lost until another is gained. Residence can be changed only by the union of act and intent. Unmarried minor's residence is residence of parent with whom child shares place of abode and cannot be changed by minor's own act. Married persons have the right to retain legal residence in California notwithstanding legal residence or domicile of spouse (Government Code §244). A district must annually verify parents' address and student's residence (Title 5 California Code of Regulations §432). There is no guidance in law regarding sufficient proof of residency. Typically districts ask for tax bills, gas/electric bills, cancelled check with name and property address, voter registration, DMV registration, lease/rental agreement, bills mailed to residence, or affidavits of residency.

A residency investigation may be done for residency, residency based on parent employment, and/or residency based on caregiver affidavit. A district employee or private investigator can conduct a residency investigation. There are limitations on the investigation (e.g., investigator cannot demand or force entry into home but may request to inspect residence).

1. Inter-District Transfer Request

An inter-district transfer request can be activated via district of choice or employment.

District of Choice Senate Bill 680 and Education Code Section 48301 allows any school district to elect District of Choice status. It prohibits denial of transfer requests on the basis of cost but allows limit on number of transfers out if negative budget certification or for fiscal stability.

2. Employment

Residency based on employment in the district may deem a pupil to be a resident if the parent or legal guardian of the pupil is —physically employed within district boundaries (EC §48204(b)). The district has discretion to deny or approve a transfer based on employment. Districts may not refuse to admit pupils based on race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration (EC §48204(b)(1)). Districts may consider a pupil’s discipline history or behavior but not the pupil’s grade point average or special education status. Either the sending or receiving district may prohibit transfer of the pupil if the governing board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district (EC §48204(b)(2)). The receiving district may prohibit the transfer if the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer (EC §48204(b)(3)).

- NOTE 1: The Office of Civil Rights has determined that it is unlawful discrimination for school districts to prohibit the transfer of special education students because the cost of educating the pupil would exceed the amount of additional state aid received. However, districts may deny a student’s request because a new program or service would have to be created.
- NOTE 2: Once admitted, the pupil’s residency can only be revoked if the parent/guardian is no longer physically employed in the district (EC §48204(b)(7)). An annual reapplication is not required but the district can verify that the parent/guardian is still employed in the district.

3. Homeless

Homeless pupils are defined as those who lack fixed, regular and adequate nighttime residence, including those (a) sharing housing due to loss of income, economic hardship, or similar reasons; (b) living in motels, hotels, trailer parks, camping grounds due to lack of adequate alternative accommodations; (c) living in cars, parks, public spaces, abandoned buildings, bus or train stations; (d) emergency or transitional shelters; (e) abandoned in hospitals; (f) awaiting foster care placement, and (g) migratory children. The McKinney-Vento Homeless Assistance Act (Federal Law 42 USC Section 11432, et seq.) requires a local education agency to provide continuous and uninterrupted education to homeless children in the student’s school of origin for the duration of their homelessness OR for remainder of academic year if pupil becomes permanently housed during the academic year UNLESS this is not in the pupil’s best

interest. The school of origin is defined as the school the pupil attended when permanently housed or the school in which the pupil was last enrolled.

4. Emancipated Minor

In many countries when a child reaches the age of majority — often 18 years old — he or she is said to be fully emancipated from parental control. This means that he or she can enjoy all the privileges and responsibilities of adulthood, such as voting, marriage and financial independence. An emancipated minor is a child who has been granted the status of adulthood by a court order or other formal arrangement. This status is not automatically bestowed on minors who have simply moved away from their parents' homes. The majority of legally emancipated minors are working teenagers who have demonstrated the ability to support themselves financially. For example, a professional actress or musician who is at least 14 years old is more likely to be considered an emancipated minor than a runaway who works part-time for minimum wage.

A minor who has been emancipated in California does not need parental approval to move out and live where he wants, or to apply for jobs or college courses. Though parental consent is needed, getting married and joining the military are two circumstances that grant immediate emancipation status to minors in California. Once a minor is emancipated, his or her parents don't have custody or control of him or her anymore and they can do some things without parental permission, including: get medical care, apply for a work permit, and sign up for school or college. However, an emancipated minor must go to school, must get parental permission before getting married, and will go to juvenile court if they break the law.

5. Caregiver Affidavit

Use of a Caregiver Affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code. Completion of the following items and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care: The minor named below lives in my home and I am 18 years of age or older. Name of minor. Minor's birth date. Caregiver's name (adult giving authorization) and home address.

Completion of the following additional items is required to authorize any other medical care: The caregiver is a grandparent, aunt, uncle, or other qualified relative of the minor. "Qualified relative" means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution. The caregiver must indicate if he/she has advised the parent(s) or other person(s) having legal custody of the minor of his/her intent to authorize medical care, and have received no objection OR that he/she is unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor. The law may require the caregiver, if not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor.

A person who relies on this affidavit has no obligation to make any further inquiry or investigation. EC § 48204 provides that a signed affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver. The school district may require additional reasonable evidence that the caregiver lives at the address provided.

6. Hospital Setting

Due to medical need, some students receive special education programs and related services in a hospital environment. The district in which the hospital resides is responsible for providing or contracting for special education services.

7. Residential Placement via the Individualized Education Program (IEP)

A residential facility is a nonsectarian school where a student with emotional disturbance resides on a 24-hour basis and receives special education and related services at the school. When the residential placement is offered as necessary for a student to receive a Free Appropriate Public Education (FAPE), the district where the parent resides is responsible for the special education services received by the student, no matter where the residential facility is located (in or out of state). Should the parent of the student move during the school year, the district that placed the student residentially through the IEP process shall be financially responsible for the remainder of the school year, including extended school year. Should a LEA decide on residential placement outside of the SELPA adopted procedures, it shall be responsible for both the education and residential costs.

8. Residential Placement by an Outside Agency

The Department of Social Services has the responsibility to remove a child from their home under conditions associated with child abuse and/or neglect. The Department of Probation, in conjunction with a court order and work with the District Attorney, can place a student into a residential setting. The Regional Center also has the ability to place a student with significant cognitive and behavioral challenges into a residential upon the request of the parents. A child may be placed in a foster home or a Licensed Children's Institution (LCI).

9. Foster Family Home

A Foster Family Home (FFH) or a home certified by a Foster Family Agency (FFA) is a family residence which is licensed by the state, or other public agency, to provide 24-hour nonmedical care and supervision for not more than six foster children, including,

but not limited to individuals with exceptional needs. AB 490 (State law Chapter 862, Statutes of 2003) strongly favors educating pupils in foster care in their school of origin. If a dispute over placement arises, the pupil may remain in the school of origin until the dispute is resolved. The local education agency must designate an educational liaison for foster children. If the liaison and parent/ guardian agree to placement other than school of origin, the pupil must be enrolled in the new placement immediately.

A FFH/FFA staff member is responsible for enrolling the child in the district in which they reside. Enrollment data should include all relevant contact information for the student, including who holds educational decision-making rights. The pupil must be enrolled even if the records normally required cannot be produced. The district in which the foster home is located is responsible for providing or contracting for special education services.

AB 216, effective September 2013, placed new notification requirements and timelines on LEAs aimed at protecting pupils in foster care. If a pupil in foster care transfers between schools after the pupil's second year of high school (determined either by credit completion or duration), the pupil must be exempted from district coursework and other requirements that are in addition to statewide requirements, unless the school district determines that the pupil is reasonably able to complete the additional local graduation requirements in time to graduate from high school by the end of the pupil's fourth year. A LEA may not require a pupil to accept the exemption and may not deny the pupil enrollment in courses for which he or she is otherwise eligible. The LEA must give pupils in foster care the option of completing a fifth year of high school, if desired, in order to satisfy the local graduation requirements. If a pupil exempt from local requirements then completes statewide coursework before the end of his or her fourth year, the LEA may not require or request that the pupil graduate early. Once granted, an exemption may not be revoked or terminated, even if the pupil is no longer under the court's jurisdiction.

10. Licensed Children's Institution (LCI)

A LCI is a residential facility (such as a group home) which is licensed by the state, or other public agency, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. AB 490 (State law Chapter 862, Statutes of 2003) strongly favors educating pupils in LCI in school of origin. If a dispute over placement arises, the pupil may remain in the school of origin until the dispute is resolved. The local education agency must designate an educational liaison for foster children. If the liaison and parent/guardian agree to placement other than school of origin, a LCI staff member can enroll the student in the district in which the LCI is based. Enrollment data should include all relevant contact information for the student, including who holds educational decision making rights. The pupil must be enrolled in the new placement immediately, even if the records normally required cannot be produced. The district in which the LCI is located is responsible for providing or contracting for special education services.

11. Juvenile Hall

Individuals with exceptional needs who have been adjudicated by the juvenile court may be placed in a juvenile hall or court school program. The County Office of Education is responsible for providing special education services for students residing in such settings. The student's district of residence may be asked to participate in the IEP process.

12. Correctional Facility (Jail)

Adults (aged 18 to 21 years) incarcerated in California adult jails and prisons who are entitled to a Free Appropriate Public Education (FAPE) if they meet the following criteria: (1) not graduated with a high school diploma; (2) at the time they turned 18, were identified as an individual with exceptional needs and had an Individualized Education Program (IEP) under the IDEA. However, an individual who was not identified as an individual with exceptional needs or did not have an IEP under the IDEA in the educational placement prior to his or her incarceration in an adult correctional facility is not entitled to a FAPE.

In December 2013, the California Supreme Court unanimously ruled in *LAUSD v. Garcia* that, under EC §56041, the school district where the pupil's parent resides is responsible for providing special education and related services to a qualifying individual who is incarcerated in a county jail. This decision means that every school district in California can be held responsible to provide, or contract to provide, special education and related services to eligible incarcerated young adults if the youth's parent resides in the district, even if the student is incarcerated outside of the school district's boundaries. This includes obligations for all of the rights afforded by the IDEA and related state law including child find/search and serve, the provision of FAPE in the least restrictive environment (LRE), and the right to due process. The following special education requirements do not apply to eligible individuals who are convicted as adults under State law and incarcerated in adult prisons:

- A. The requirements relating to participation in general assessments; eligible individuals incarcerated in adult prisons are exempted from participation in state and district-wide assessment programs under the IDEA.
- B. The requirements relating to transition planning and transition services do not apply with respect to such individuals whose eligibility under the IDEA will end because of their age before he or she will be released from prison.
- C. The IEP Team may modify the individual's IEP or placement notwithstanding the LRE requirements and the IEP contents requirements if there is a bona fide security or compelling legal interest that cannot otherwise be accommodated.

B. Holder of Educational Rights

The biological or adoptive parent is presumed to hold the educational rights for their child. Per the IDEA §300.30, parent means:

- A biological or adoptive parent of a child;

- 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;
- 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);
- 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
- A surrogate parent who has been appointed in accordance with §300.519.

The following section addresses the exceptions that can arise under caregiver affidavits, court appointed surrogate parents, educational representatives, parent transfer of rights, surrogate parents, and the transfer of rights at age 18.

1. Caregiver Affidavit

A form completed through the Child Welfare and Attendance (CWA) Office of the school district documents when a caregiver assumes responsibility for a student when the child or youth resides with them. Per Family Code Section 6550(a-d), a pupil may attend a district in which he or she lives with a caregiver so long as the Caregiver Affidavit is submitted with the required information. Any adult caregiver who completes the affidavit may enroll the minor in school and provide consent to school-related medical care on behalf of the minor. Anyone over 18 who fills-out items 1-4 and signs the affidavit can be a caregiver. However, only qualifying family members are able to authorize any non-school related medical care and must complete items 5-8 on the form. The caregiver is responsible for notifying the school if the minor stops living with them, thereby making the affidavit invalid. A person relying on the affidavit has no obligation to make any further inquiry or investigation but schools may conduct residency investigations or ask for verification.

a. Court Appointed Surrogate Parent (CASA)

A CASA worker is appointed by the court to make decisions, including educational decisions, on behalf of a student with a disability. The district in which the CASA worker resides is responsible for the special education services provided to the student.

b. Educational Representative

An educational representative is the responsible adult who holds the educational rights for a child when the parents or guardians 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)).

c. Joint Custody

IDEA and state special education laws and regulations clearly describe parental rights and the school district's duty to meet them. Most rights are unchanged by divorce. The divorce decree, the legal document describing the individual parent's obligations after the marriage ends, should clearly define the relationship among the parents, their child, and the education system. The IDEA focuses on the procedural safeguards afforded to parents of special needs students and their intent to give parents a meaningful opportunity to participate in the decision-making process of their child's education.

Congress never intended to deny a noncustodial parent the right to ensure his or her child is receiving a FAPE. The Office of Special Education Programs (OSEP) acknowledges that disputes between parents who share the right to make educational decision for their child, and who disagree about the provision of special education and related services for their child, may place a LEA in a difficult decision.

- i. Married, divorced, separated, or never-married parents may disagree. Their issues regarding divorce decrees, custody orders, separation agreements, restraining orders, and relevant state statutes should be addressed in family law, which is vested in state law. LEAs can get caught between family law decisions and the IDEA, which requires that both parents of a special needs child be afforded ALL of their rights under the IDEA, UNLESS these rights are altered by a specific provision in the custody order, issued by the state court (71 Fed. Reg. 46,568 [2006]).
- ii. The IDEA requires parental consent for evaluations, eligibility, initial placement of the child, change in placement as well as parental participation in notice, attendance at IEP meetings, access to student records, and the right to file for mediation / due process.
- iii. Legal custody is defined as the parent or guardian who has decision-making authority, including education, and is responsible for the care, control, and maintenance of a child (Black's Law Dictionary, 9th ed. 2009). When questions arise over who has legal custody, it is recommended that the LEA obtain current copies of the family court order as it or the divorce decree will typically set forth whether: legal custody of the child is sole or joint. Joint legal custody means that both parents keep the right to make important decisions about their children's education, health care, and religious training. Under joint legal custody, unless the decree is written differently, both parents have the right to:
 - Receive written notice of special education meetings to each parent who has legal custody of the child and has provided the school with an address. (34 C.F.R. § 300.322(a); EC §56304 & 56341.5.)
 - Afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. (34 C.F.R. §

- 300.501(a); EC §56500.4.)
 - Exercise their due process rights
 - Receive progress reports
 - Have the chance to agree or disagree with plans for initial evaluation and placement in special education.
- iv. If the parents have joint legal custody but only one parent has physical custody, both parents would keep the rights to receive information, see records, and make decisions regarding special education UNLESS the parent no longer has that right pursuant to state law or court order (34 CFR §99.4 & 300.613).
- Where one parent has sole legal custody, the non-custodial parent still retains the right to access the child's school records (34 CFR §99.4 & 300.613). Under the IDEA, there is no requirement that written consent [on an assessment plan or IEP] be provided by both parents. LEAs typically only require the signature of one parent. When parents are divorced or separated, it is important for the LEA to check the court order and not assume they are compliant if they have the consent of one parent.
- v. If joint custody, look for details regarding each parent's right to make educational decisions. It is also recommended that LEAs maintain a policy as part of the enrollment process that requires parents to provide current copies of family court order such as divorce decrees, custody orders, separation agreements, and restraining orders. A domestic violence restraining order may designate custody arrangements, preclude or limit contact with a student or the other parent, and/or further restrict one parent from school grounds.
- vi. If there is no court order, go back to the basic proposition that both parents of a child with special education needs must be afforded all of their rights under IDEA. Both parents are permitted to participate in the IEP team meeting, even if one parent has sole custody UNLESS there is a court order precluding a parent from participating in a child's education or otherwise barring the parent from school grounds. If a parent has educational decision-making authority but there is a court order precluding a parent from participating in a child's education or barring the parent from school, consider getting parent input via the telephone and/or convening two meetings. Without consent from both parents, a LEA would be hard pressed to classify and provide a special education program for a child (see Machado presentation at LRP Conference, 2014).
- vii. The OSEP *Letter to Cox* (2009) indicates that when both parents have joint custody and the joint decision-making authority for a child on an IEP and one parent revokes consent, the LEA must provide prior written notice, cease providing services, and treat any subsequent evaluation request by either parent as a request for an initial evaluation. The other parent cannot file for due process to reinstate services because due process must allege a violation of the IDEA and revocation of consent is not an action taken by the

LEA. OSEP determined that such disputes are to be settled privately or through the state family court. In a *Letter to Ward* (2010), OSEP rejected the argument that only the parent who gave consent has the right to revoke that consent – the non-consenting parent with joint decision-making authority can also revoke consent for services under the IDEA.

- viii. If the parents cannot agree, school personnel can use informal means such as school meetings to try to resolve the conflict. If agreement is still not reached, either parent or the school may initiate the alternative dispute resolution (ADR) process to try and reach a mutual understanding in the best interests of the child. Various court cases (see Machado presentation at LRP Conference, 2014, for specific case references) have addressed parental rights to file for due process and mediation. Where parents have joint custody and the order is silent as to who makes the final decision, both parents have standing to file for due process and mediation. When parents have joint custody and the order designates one parent with final decision-making authority, the other parent does not have standing to file for due process and mediation.
- ix. When the issue of the hearing involves a change in educational placement, in most cases the student will —stay put in the current school program until the matter is decided. The first step after filing for due process is to conduct a resolution meeting to try once again to reach consensus. Mediation with an impartial hearing officer is another option to attempt to reach a settlement agreement with the parties still in control of the decision-making. In a due process hearing, the parties must provide evidence packets and witness testimony to argue their case, an Administrative Hearing Judge will make the decision and the parties must comply with or appeal that decision.
- x. If parents are in so much conflict that they are unable to work on behalf of the child in the special education process, either parent has the option of consulting an attorney about returning to court to ask that the divorce decree be altered.

2. Parents' Transfer of Rights

When a parent gives up their rights to make educational decisions about their child and transfers such rights to another person in writing (e.g., a letter, preferably notarized).

3. Surrogate Parent

A surrogate parent is an adult appointed by a local educational agency (LEA) or special education local plan area (SELPA) to represent a pupil (aged 0-21) for the purpose of their individual education program (IEP) to ensure that the rights of the pupil to a free appropriate public education are protected (when the biological parents cannot be found or the courts have removed their educational rights and have not assigned them to another). See CDE *Surrogate Parent Requirements and Training* document at <https://buttecountyselpa.org/info/surrogate-parents-wanted>.

4. Transfer at Age 18

The Notification of the *Transfer of Educational Rights* form is an optional form for districts to use. On or before the student's 17th birthday, explanation must be given to the student and the parent that all special education rights and protections upon turning 18 will be assumed by the student (unless a conservator has been appointed through the court).

C. Different Attendance Options

EC § 58500 Alternative Schools – Under California law, school districts may establish alternative schools. This law particularly authorizes interested persons to request the governing board of the district to establish alternative schools. The county superintendent of schools, the administrative office of this district and the principal's office of each school have copies of the law available for the information of parents, students and teachers.

EC § 48980(h) Attendance Options – Each district currently provides comprehensive educational programs for school-age children enrolled in kindergarten and grades one through 12. These programs are available on a limited basis through statutory attendance options, to students who reside outside district boundaries. Additional attendance options as described below are available on a limited basis to students whose parents or guardians currently reside within the district's attendance boundaries and to students who have established residency pursuant to provisions of EC § 48204(b). Current statutory attendance options and local attendance options available to district students are as follows:

EC § 35160.5(b); BP 5116.1 Intra-district Choice – Establishes a district program of open enrollment that is available to students whose parents or guardians currently reside within district attendance boundaries and to students who have otherwise established residence pursuant to provisions of EC § 48204. An intra-district choice allows a parent to select the school the child shall attend within the school district. Requests for admission will be based on a random, unbiased selection process. To receive more information, contact the Pupil Services Department at the district in which you reside.

EC § 46600-46607; EC § 48200.5 Inter-district Attendance Permits

Inter-district Agreements: Students who reside within the boundaries of any district within the Butte County SELPA member districts may request to transfer to another school within Butte County. Transfer requests are granted based on space availability in the district schools.

Inter-district Permit due to Child Care Needs: Parents/guardians may request an inter-district transfer for their kindergarten- grade 6 students due to child care needs. The permit shall be renewed yearly and may be revoked when students cease to receive child care in the district or due to non-availability of space in the district schools.

EC § 48204(b) Inter-district Permit due to Parental Employment: Parents/guardians may request an inter-district transfer for their kindergarten – grade 12 students if they are employed within the boundaries of the district. The permit may be revoked when parents/guardians cease to be employed within the boundaries of the district or due to non-availability of space in the district schools.

AB 2444 Inter-district Permit: This bill prevent students who are enrolled in a school pursuant to these provisions from having to reapply for an inter-district transfer and would require the governing board of the school district of enrollment to allow the pupil to continue to attend the school in which he or she is enrolled, except if the district of residence and district of enrollment agree otherwise.

Inter-SELPA Transfer

When the district of residence of a student with a disability is unable to provide for the special education services a student needs, the district can initiate an Inter-SELPA transfer to another SELPA for the provision of the needed services. The Inter-SELPA transfer paperwork clarifies responsibilities of the SELPAs and LEA in regards to provision of services, transportation, and fee for services.

Private School Placement by Parents

Parents may choose to enroll their child in a private school. The private school is responsible for providing interventions, holding problem solving team meetings, and referring an individual with a suspected disability to the district in which the private school is located. Per the Butte County SELPA *Private School Procedures*, the district where the parent resides is responsible for responding to the referral, conducting any necessary individualized assessments, completing the IEP process, and making an offer for a free appropriate public education. The district wherein the private school is located is responsible for providing interventions and the provision of services agreed.

Section J: Guidelines for Specific Programs/Services

- Introduction – Guidelines for Specific Services
- Adapted Physical Education (APE)
- Deaf/Hard of Hearing (DHH) Itinerant Services
- Educational Necessary Occupational/Physical Therapy Services
- Speech and Language Services
- Low Incidence Disabilities
- Assistive Technology Guidelines
- Extended School Year
- Special Education Transportation
- Guidelines for Students with Disabilities Participation in Field Trips
- Guidelines for Private School Students with Disabilities

GUIDELINES FOR SPECIFIC SERVICES

INTRODUCTION

The purpose of this section is to provide information to both educators and parents when learning about and/or accessing specific services and/or rights.

These services include:

- Adapted Physical Education
- Deaf/Hard of Hearing Itinerant Services
- Educationally Necessary Occupational Therapy / Physical Therapy Services
- Low Incidence Disabilities
- Guidelines for Private School Students with Disabilities
- Residency, Educational Rights and the Provision of Special Education Services
- Determining Transportation as a Related Service
- Guidelines for Students with Disabilities Participation in Field Trips
- Assistive Technology
- Parent's Right to be Informed in Primary Language

Many other services and/or rights are highlighted in other sections of this Special Education Procedural Manual and can be found under the subtitles of each major section.

ADAPTED PHYSICAL EDUCATION (APE)

The purpose of the Adapted Physical Education (APE) section is to provide information on the eligibility criteria for APE, interventions prior to referring students to be tested for eligibility, assessment of needs, and available reference resources.

I. Eligibility Criteria for Adapted Physical Education (APE)

FEDERAL LAW

Title 34, Code of Federal Regulations (CFR) includes special education physical education instruction as follows:

§ 300.39 Special Education.

(a) *General.*

(1) *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including -

- (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- (ii) Instruction in physical education.

(2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section -

- (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
- (ii) Travel training; and
- (iii) Vocational education.

(b) *Individual special education terms defined.* The terms in this definition are defined as follows:

(1) *At no cost* means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) *Physical education* means -

- (i) The development of -
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
- (ii) Includes special physical education, adapted physical education, movement education, and motor development.

Authority for Title 34 § 300.39 Special Education outlined above is provided Title 20 United States Code (U.S.C.) § 1401 and reads,

20 U.S.C. 1401 (29) Special Education. The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including

-

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

Physical Education is defined as,

Title 34 CFR 300.108 Physical Education. The State must ensure that public agencies in the State comply with the following:

(a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless -

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's IEP.

(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

(d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.

(Authority: 20 U.S.C. 1412(a)(5)(A))

STATE LAW

California Code of Regulations (CCR) reads,

§ 3051.5. Adapted Physical Education for Individuals with Exceptional Needs.

(a) Adapted physical education is for individuals with exceptional needs who require developmental or corrective instruction and who are precluded from participation in the activities of the general physical education program, modified general physical education program, or in a specially designed physical education program in a special class. Consultative services may be provided to pupils, parents, teachers, or other school personnel for the purpose

of identifying supplementary aids and services or modifications necessary for successful participation in the regular “D” Physical education program or specially designed physical education programs.

(b) Adapted physical education shall be provided only by personnel who possess a credential issued by the California CTC that authorizes service in adapted physical education.

Note: Authority cited: Sections 56100 and 56366.1, Education Code. Reference: Section 56363, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

II. Assessment of Needs (Reference: “Adapted Physical Education Guidelines,” Fresno Unified School District)

A. Legal Reference

The role and responsibilities of the adapted physical education specialist include assessing and identifying an individual’s needs; collaborating or consulting with other service providers; and providing direct Adapted Physical Education service. Title 5 CCR §§ 3051.5 (a)-(b) and CA Education Code §§ 56320 (f)-(g).

B. Discussion

An APE specialist is part of the multidisciplinary assessment team whose responsibilities include assessing and identifying a child’s needs in the area of movement skills. To accomplish this, the APE specialist must choose appropriate assessment methods and instruments; administer the assessment; interpret the data; describe the present level of performance; and recommend the appropriate physical education service based upon the student’s identified needs. The APE specialist provides consultation to and collaborates with teachers, assistants/aides, parents, administrators, and other professionals. Examples of other professionals include, but are not limited to, physical therapists, occupational therapists, speech and language pathologists, special education teachers, orientation and mobility specialists, teachers of the visually impaired, hearing impairment specialists, assistive technology specialists, psychologists, and school nurses. Adapted Physical Education specialists provide direct adapted physical education service to students, identified through the individualized education program (IEP) team process, who need specialized instruction.

C. Best Practice

Through appropriate assessment and interpretation of data, the needs of the student, goals and objectives are identified. Children with disabilities often receive services from several teachers and specialists. Through consultation and collaboration among these professionals, the quality of instruction and intervention tends to be enhanced as information and strategies are shared.

D. Child Find

Legal Reference: All individuals with disabilities residing in the State, including pupils

with disabilities who are enrolled in elementary, secondary schools and private schools, regardless of the severity of their disability, and who are in need of special education and related services, shall be identified, located, and assessed. (20 U.S.C. § 1412(a) (3); 34 CFR § 300.125)

Legal Reference: Each district, special education local plan area, or county office shall establish written policies and procedures for a continuous child-find system which addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. (CA Education Code § 56301)

E. Screening

The Individuals with Disabilities Act (IDEA) defines many parameters of the referral, assessment, and review processes. Although screening pertains to all children, no state or federal statutes or regulations define the term “screening,” and many interpretations exist regarding its definition. Often, the purposes of screening within general education are to identify other adaptations, accommodations, or modifications, or to determine whether formal assessment is needed for the purpose of identifying a child's needs and potential special education services. Screening should not be confused with assessment, as placement decisions in special education cannot be based upon information obtained from screening.

While screening policies and procedures are left to local control and must be stated in the local plan, IDEA specifies that before a child is assessed, an assessment plan must be developed and signed, parental permission must be obtained. Care must be exercised not to single the child out when screening. If you single the child out this would then be considered an assessment and would require a signed consent form.

The screening process could include:

- Review of school records;
- Consultation with the classroom teacher or other school staff;
- Pre-Referral Intervention/Checklist;
- Student Study Team action plan or 504 accommodation plan;
- Observation of an entire class; and,
- Physical Fitness Test Results

F. Best Practice

It is suggested that the APE specialist screen children in a group setting. Information obtained from screening can be used to determine the need for a referral to APE or to identify other adaptations, accommodations, or modifications. The student's ability to participate in the general physical education curriculum and to achieve student performance standards should always be considered as part of any referral for adapted physical education assessment. In many cases, the general physical educator is qualified and responsible for conducting screening procedures. It is especially helpful when the

screening procedures are based on the curriculum. Screening is not part of a formalized assessment plan.

III. Adapted Physical Education Services (Reference: “Adapted Physical Education Guidelines,” Fresno Unified School District)

APE, like all special education, is offered in the least restrictive environment. Students with disabilities must be included to the maximum extent possible in the general physical education program. For students with disabilities who are receiving APE, and students who are participating in the general PE program with accommodations/modifications, a continuum of placement options may include one or more of the following:

- General physical education setting;
- General PE setting with accommodations/modifications;
- General PE setting with assistance from staff and/or APE specialist;
- A separate PE class setting with peers and additional staff as needed; or,
- Separate public school

The inclusion of students with disabilities into the general PE curriculum should not compromise the learning of other students in the class setting. However, supplementary aids and supports must be tried before placing a student in a more restrictive setting.

A collaborative approach is recommended for adapted physical specialist, which maximizes the quality of education for students with a disability. For example, when a student receives two or more services, (e.g. APE and Physical Therapy) often, the child’s disability is such that it is interfering with a given movement performance. Assistive devices and specific exercises identified by a therapist often are needed to help the child. In these cases, the APE specialist, as well as the special education teacher, should be aware of how to use the specialized equipment and how to perform the exercises. On the other hand, children may perform skills with their peers during physical education that they are not motivated to perform in therapy sessions. By communicating with the therapist, the APE specialist can keep the other professionals informed about skill transfer to the educational settings that involve group participation.

IV. Resources

- *Guidelines for Occupational Therapy and Physical Therapy in California Public Schools*, California Department of Education, Second Edition 2012

https://www.bot.ca.gov/forms_pubs/otpot_guidelines_2012.pdf

- *Physical Education Model Content Standards for California Public Schools – Kindergarten Through Grade Twelve*, Adopted by the California State Board of Education January 2005 and Reposted by California Department of education September 17, 2010

<http://www.cde.ca.gov/be/st/ss/documents/pestandards.pdf>

- *Adapted Physical Education Guidelines in California Schools*, California Department of Education, Revised December 2012. The link is provided below.

<https://www.califstatecouncilape.org/california-ape-guidelines.html>

V. Adapted Physical Education Guidelines in California Schools

The PURPOSE is reprinted below from *Adapted Physical Education Guidelines in California Schools*, which is referenced above in the RESOURCE section.

“The purpose of this document is to identify program guidelines that clarify adapted physical education services. These are provided to individuals with disabilities who require highly specialized services to meet their individual goals for physical education that includes movement education and motor development. These *Guidelines* are organized by groups of key provisions that are followed by legal requirements, discussion and best practice statements, to be used when identifying, assessing, planning and implementing quality physical education programs. When determining appropriate adapted physical education services, educational personnel, other agency and community personnel parents and individuals may reference these guidelines. Educational personnel include, but may not be limited to, teachers, support personnel and administrators. Examples of other agency and community personnel include physical therapists, occupational therapists, social workers and medical personnel.”

The *Adapted Physical Education Guidelines in California Schools*:

- Clarify eligibility for adapted physical education services.
- Identify physical education service delivery options.
- Provide information to evaluate, improve and maintain quality adapted physical education services throughout California.
- Provide criteria for conducting self-review and monitoring of adapted physical education services.
- Provide a resource for special education local planning areas (SELPA), county offices of education and local education agencies (LEAs) to use in developing local plans, policies and procedures to address the physical education needs of individuals with disabilities.
- Establishes key provisions that are consistent with federal and state laws and regulations.
- Clarify the differences and similarities among adapted physical education and physical and occupational therapies.
- Clarify the role and responsibilities of an adapted physical education teacher.
- Include best practices for inclusion within the physical education setting.

- Clarify transition services.
- Addresses the relationship of *Physical Education Model Content Standards for California Schools* to children with Disabilities.

Note: The curriculum chapter was rewritten in the December 2012 version of these Guidelines to address the *Physical Education Model Content Standards for California Schools* and the state-mandated physical fitness test applied to individuals with a disability.

VI. Intervention Practices Prior to Referral

Provided on the following pages are screening checklists adapted and reprinted with permission by the Hemet Unified School District.

- Motor Skills Screening Checklist (Preschool to Kindergarten)
- Gross Motor Coordination Survey (Elementary)
- Adapted Physical Education Student Work Log (Elementary)
- Physical Education Behavior Checklist (Secondary)
- Referral Process
- Referral Process Flow Chart

ADAPTED PHYSICAL EDUCATION

Referral Process

Before a student is referred for Adapted Physical Education services, modifications and interventions must be made and documented by the regular physical education and/or special day class teacher. These modifications should allow for the student to have the opportunity for a safe and successful physical education experience.

Some modifications may include:

1. Changing the rules to a game.
2. Modify the playing area. Shorten the distance between bases, lower baskets and limit the playing area, etc.
3. Change the scoring. Award more points to a student with disabilities.
4. Change the size and weight of the equipment.
5. Allow the disabled student to have more practice time.
6. Allow the student to limit his/her participation. (e.g. asthma, heart, Cerebral Palsy)

Each student is an individual. Modifications need to be individualized.

If after a reasonable amount of time (six weeks) and modifications have not been successful and the interventions have been documented, please refer to the flow chart for further directions.

ADAPTED PHYSICAL EDUCATION Motor Skills Screening Checklist (Preschool to Kindergarten)

Name: _____ Date: _____
 DOB: _____ Grade: ____ Teacher: _____ School: _____
 Other Special Education Services: _____
 Any Pertinent Medical Information: _____

Gross Motor Skills “ Can the Student...”	YES	Yes with difficulty	NO	Comments
1. Stand on one foot for 10 seconds.				
2. Walk forward on a line heel to toe for 6 feet.				
3. Gallop without difficulty.				
4. Skip with good rhythm.				
5. Run with arm/leg opposition.				
6. Jump rope three times teacher turning.				
7. Hop on preferred foot 5 times.				
8. Hop on other foot 3 times.				
9. Take two or more coordinated steps and kick a playground ball.				
10. Catch a bounced playground ball with both hands.				
11. Catch a thrown playground ball with both hands and with arms extended.				
12. Catch a bounced tennis ball with both hands.				
13. Throw a tennis ball overhand with a forward step.				
14. Use arm/leg opposition when throwing a tennis ball. (Forward step with opposite foot of throwing arm.)				
15. Ride a tricycle.				
16. Swing using a pump action to keep momentum.				

ADAPTED PHYSICAL EDUCATION

Gross Motor Coordination Survey – Page 1 (Elementary)

Name: _____ Date: _____
 DOB: _____ Grade: ____ Teacher: _____ School: _____
 Other Special Education Services: _____
 Any Pertinent Medical Information: _____

Balance:	YES	Yes with difficulty	NO	Comments
1. How many seconds can the student stand on preferred foot? Other foot?				
2. How many steps can they take walking on a straight line?				
3. How many heel to toe steps can student take walking on a straight line?				
Locomotor Skills:				
1. Can student jump taking off on both feet and land on both feet?				
2. How many times can student hop on preferred foot? Other foot?				
3. Is the student able to gallop?				
4. Is the student able to skip?				
Hand-eye Coordination:				
Take an 8 X 11-inch piece of paper and make a ball out of it.				
1. From ten feet away is student able to catch the ball using hands to control the ball?				
2. If you have a playground ball bounce the ball to student, is student able to catch using hands to control the ball?				
3. Can student bounce the playground ball with one hand over three times?				

ADAPTED PHYSICAL EDUCATION

Gross Motor Coordination Survey – Page 2 (Elementary)

Please note any other observations or interventions here and on the back of this page.

Laterality/Directionality	YES	Yes with difficulty	NO	Comments
1. Ask student to: a. Raise their right hand. b. Touch left foot. c. Raise left hand. d. Touch right foot. i. Is student correct in movement choices? ii. Does student hesitate?				
2. Ask student to take one step: a. Forward b. To the left c. Backward d. To the right i. How many incorrect movements did student make?				
Jump Rope Skills				
3. Take a single jump rope about 12 feet long. How many times is student able to jump the rope with a teacher turning the rope?				
4. Using a single jump rope. How many times can student turn and jump the rope?				

ADAPTED PHYSICAL EDUCATION

Physical Education Behavior Checklist (Secondary)

Name: _____ Date: _____

DOB: _____ Grade: _____ Teacher: _____ School: _____

Other Special Education Services: _____

Any Pertinent Medical Information: _____

Below are some skills and behaviors that will help identify students who may need further assessment for Adapted Physical Education services. Please check the appropriate box. If further comment is needed feel free to use the back of this form. Return the completed form to your APE specialist.

Secondary Skills	YES	Yes with difficulty	NO	Comments
Can or does the student				
1. Throw, catch, dribble, strike and kick a variety of balls with a partner or in a group situation?				
2. Perform the physical fitness test times?				
3. Understand simple rules for team sports and appropriate scoring procedures for each?				
4. Show effort and cooperation to participate in all activities to the best of his/her abilities?				
5. Initiate participation in independent movement activities?				
6. Participate safely in activities?				
7. Demonstrate good sportsmanship?				
Personal responsibility: can or does the student.....				
1. Use a combination lock without assistance?				
2. Dress out in the allotted time?				
3. Maintain personal hygiene independently?				
4. Follow directions and stay with the group?				
5. Ask for help when needed?				

Please list interventions previously tried:

DEAF/HARD OF HEARING (DHH) ITINERANT SERVICES

I. Overview

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.

II. Available services include, but are not limited to, the following:

1. Identifying students whose hearing impairment significantly impacts their educational performance.
2. Providing direct service to deaf and hard of hearing students.
3. Helping with appropriate placement of hearing impaired students.
4. Suggesting appropriate educational strategies and accommodations for hearing impaired students in the classroom (e.g., directions written on board or overhead; note takers; closed-captioned TV; instruction/direction repeated and/or restated to be sure student understands; auditory equipment used when appropriate; preferential seating).
5. Assisting in obtaining and monitoring assistive listening devices such as FM systems or auditory trainers.
6. Checking hearing aids for proper functioning and assisting school personnel in establishing a monitoring program. Students who receive direct services from the DHH itinerant teacher will have their hearing aids monitored on a weekly basis. Those seen on a consult basis will have aids monitored monthly or as indicated on the IEP.
7. Providing interpretation of audiological information and the effects of hearing loss on educational performance. When needed, the DHH itinerant teacher will consult with contracted audiologist.
8. Suggesting strategies to improve communication with deaf and hard of hearing students.
9. Providing specialized training to teachers, administrators, support staff, and parents regarding the unique needs of deaf and hard of hearing students.
10. Assessing areas of speech, language, vocabulary, reading, and auditory skills in collaboration with speech/language pathologists and other specialists, and helping develop appropriate goals as a member of the IEP team.

LEAs in Butte County Special Education Local Plan Area (SELPA) currently contract this service through the Butte County Office of Education.

EDUCATIONAL NECESSITY OCCUPATIONAL THERAPY (OT) / PHYSICAL THERAPY (PT) SERVICES

I. Overview

Public schools are not required to provide a service to a child with a disability just because the child will benefit from the service or even if the child requires the service for other than educational reasons. A student might benefit from Occupational Therapy (OT) or Physical Therapy (PT) if he/she is having significant difficulties in classroom performance as impacted by curriculum, educational environment, and abilities. Simply having needs in the areas of gross or fine motor skills does not mean that a child needs OT or PT. Special education teachers can assess and assist children who have special needs in fine or gross motor skills. Most special education children with needs in these areas can and should be served by their teachers. There are a few children whose needs are so significant and unique that the child's special education teacher cannot serve them. These children may need the services of an OT or PT.

- A. A key factor the IEP/IFSP team must remember is that a related service such as OT or PT is warranted only if it is necessary for the child to benefit from their educational instruction. Therefore, if the IEP/IFSP team should determine if all other strategies, activities, or resources available have been exhausted and it has been determined that OT or PT is necessary for the child to benefit from his/her instructional program. OT and PT should not be viewed as a part of the curriculum but as a resource to allow the student to function within the school routine. The amount and intensity of services should increase or decrease according to the changes in educational demands and in a student's performance.
- B. As a related service, OT and PT serve a supportive role in helping the student to participate in and benefit from special education. Educationally-related OT and PT services are provided within the context of the student's educational program, with service delivery occurring in the school environment where the need occurs. The goal of intervention is to assist the student to function in the school setting by adapting the environment, revising the functional tasks, and by promoting elements of sensorimotor development.
- C. While physical therapists assist with muscle development, occupational therapists assist with the functional use of these muscles. In the educational setting, OT and PT services focus on "improvement of functioning" and not serving goals beyond the capacities of the individual. Services may include assessment, direct therapy, and several types of consultation. These intervention activities are not mutually exclusive and may occur at the same time.

II. Determination of Educational Need for Therapy

According to the CA Ed Code and IDEA 2004, the IEP/IFSP team is addressing the question, “Is occupational therapy (OT) or physical therapy (PT) necessary for the child to benefit from his/her special educational instruction?” While “educationally necessary” is difficult to define precisely, determining the need for educationally necessary OT and/or PT may best be approached by the IEP team addressing a series of questions about the developmental issues involved in the student’s progress toward goals.

A. Indicators for Occupational Therapy Referral

- Poor hand use including illegible handwriting or poor pencil grasp. (OT is *not* appropriate if the child has not been taught correct handwriting.)
- Non-standardized pencil grasp yet writes legibly. If the student is unable to learn correct letter formation strategies despite repeated individual instruction and remedial programs like *Handwriting without Tears*, then an OT referral may be appropriate.)
- Extreme difficulty completing classroom activities requiring cutting, gluing, manipulating small objects without adaptive equipment, environmental modifications, or assistive technology.
- Deficits in adaptive self-help skills necessary in the educational setting, for example toileting, fastening clothing, feeding.
- Excessive difficulty learning new motor tasks.
- Modulation of sensory information in the areas of vestibular, proprioceptive, tactile, auditory, visual, olfactory and taste substantially impeding ability to access the educational plan.

B. Indicators for Physical Therapy Referral

- Difficulty navigating school grounds, including areas with uneven terrain, obstacles, congestion, etc.
- Difficulty climbing stairs, curbs, and bus steps with or without rails
- Difficulty transitioning in and out of desks/chairs and to and from the floor independently
- Difficulty keeping up with classmates while walking in line
- Difficulty remaining stable in a seated position in order to do classroom work
- Difficulty carrying books, backpack, lunch tray, and other school materials
- Difficulty opening and closing school doors
- Difficulty accessing playground equipment
- Difficulty accessing areas of the school using a wheelchair, walker, or other assistive device
- Difficulty safe transport to and from school

III. Referral for OT or PT Evaluation

- A.** A child with a suspected but not yet identified disability is initially referred to a problem solving team (i.e., Student Success Team [SST]). Once identified, every year an IEP or IFSP team will be responsible for monitoring student progress and identifying any additional areas of needed assessment. As special education instruction frequently can overlap OT and PT activities in many skill areas, such teams need to thoroughly consider the level of professional expertise needed to assess in all areas of suspected disability and address educational goals. Going through this process helps to assure that general and special education resources have been explored before determining that OT and/or PT services are required for a student to benefit from their special education program.

- B.** The referral process should follow the local education agency's standard referral procedures. Public schools are not required to provide a related service to a student with disabilities simply because the student will benefit from the service. The IEP team must determine that a related service is warranted only if it is necessary for the student to benefit from the special education instruction. When the team has explored the strategies, activities and resources available within the instructional program, and has determined that the student is not likely to benefit from this program's opportunities without additional professional services from an occupational or physical therapist, then the case should be referred for a specialized evaluation.

SPEECH AND LANGUAGE SERVICES

I. **Role of a Speech Language Pathologist** (Title 5 California Code of Regulations [CCR] Section 3051.1)

CALIFORNIA CODE OF REGULATIONS

§ 3051.1. Language, Speech and Hearing Development and Remediation

(a) Language, Speech and Hearing Development and Remediation services include:

(1) Referral and assessment of individuals suspected of having a disorder of language, speech, or hearing. Such individuals are not considered as part of the caseload pursuant to Education Code section 56363.3 unless an IEP is developed and services are provided pursuant to sections 3051.1(a)(2) and (3).

(2) Specialized instruction and services for individuals with disorders of language, speech, and hearing, including monitoring of pupil progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of pupils.

(3) Consultative services to pupils, parents, teachers, or other school personnel.

(4) Coordination of speech and language services with an individual's regular and special education program.

(b) Caseloads of full-time equivalent language, speech and hearing specialists providing instruction and services within the district, SELPA, or county office shall not exceed a district-wide, SELPA-wide, or county-wide average of 55 individuals unless prior written approval has been granted by the SSPI.

(c) Language and speech development and remediation shall be provided only by personnel who possess:

(1) a license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs; or

(2) a credential authorizing language or speech services.

(d) Services may also be provided by speech-language pathology assistants working under the direct supervision of a qualified language, speech, and hearing specialist, as defined in Business and Professions Code section 2530.2(i), and if specified in the IEP. No more than two assistants may be supervised by one qualified language, speech, and hearing specialist. The caseloads of persons in subdivision (b) shall not be increased by the use of assistants.

Note: Authority cited: Sections 56100 and 56366.1, Education Code. Reference: Section 2530, Business and Professions Code; Sections 56363 and 56363.3, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

II. Federal and State Laws Regarding Speech and Language Impairment

FEDERAL LAW

Individual Disabilities Education Act (IDEA) (34 *C.F.R.* Section 300.8 (c)(11)) defines “speech or language impairment” as,

(c) *Definitions of disability terms.* The terms used in this definition of a child with a disability are defined as follows:

(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.

IDEA (34 *C.F.R.* Section 300.39 (a) defines “Special Education” as,

(a) *General.*

(1) *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

- (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- (ii) Instruction in physical education.

(2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—

- (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
- (ii) Travel training; and
- (iii) Vocational education.

Note: The IDEA regulations above (at 34 *C.F.R.* Section 300.39) makes it clear that “speech-language pathology services” could be considered as special education rather than a related service under State standards.

CALIFORNIA EDUCATION CODE SECTIONS

Definition of Language or Speech Disorder

§ 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.

Eligibility Criteria for Special Education on the Basis of Language and Speech Disorder (Specific Learning Disability)

§ 56337. (a) A specific learning disability, as defined in Section 1401(30) of Title 20 of the United States Code, means 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 the imperfect ability to listen, think, speak, read, write, spell, or perform mathematical calculations. The term "specific learning disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

§ 56337. (b) Notwithstanding any other law and pursuant to Section 1414(b)(6) of Title 20 of the United States Code, in determining whether a pupil has a specific learning disability as defined in subdivision (a), a local educational agency is not required to take into consideration whether a pupil has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

Language and Speech Development and Remediation as a Related Services

§ 56363. (a) As used in this part, the term "designated instruction and services" means "related services" as that term is defined in Section 1401(26) of Title 20 of the United States Code and Section 300.34 of Title 34 of the Code of Federal Regulations. 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.

§ **56363.** (b) These services may include, but are not limited to, the following:

- (1) Language and speech development and remediation. The language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in subdivision (i) of Section 2530.2 of the Business and Professions Code.

Average Caseload for Speech Pathologist, Kindergarten through 12th Grade

§ **56363.3.** The average caseload for language, speech, and hearing specialists in special education local plan areas shall not exceed 55 cases, unless the local plan specifies a higher average caseload and the reasons for the greater average caseload.

Speech or Language Impairment for Preschool Children

§ **56441.11.** (a) Notwithstanding any other law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.

§ **56441.11.** (b) A preschool child, between the ages of three and five years, 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, as defined in Section 300.8 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):

(K) Speech or language impairment in one or more of voice, fluency, language and articulation.

Maximum Caseload for Speech Pathologist for Preschool Children

§ **56441.7.** (a) The maximum caseload for a speech and language specialist providing services exclusively to individuals with exceptional needs, between the ages of three and five years, inclusive, as defined in Section 56441.11 or 56026, shall not exceed a count of 40.

CALIFORNIA CODE OF REGULATIONS

§ **3051.1.** Language, Speech and Hearing Development and Remediation

(a) Language, Speech and Hearing Development and Remediation services include:

- (1) Referral and assessment of individuals suspected of having a disorder of language, speech, or hearing. Such individuals are not considered as part of the caseload pursuant to Education Code section 56363.3 unless an IEP is developed and services are provided pursuant to sections 3051.1(a)(2) and (3).
- (2) Specialized instruction and services for individuals with disorders of language, speech, and hearing, including monitoring of pupil progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of pupils.
- (3) Consultative services to pupils, parents, teachers, or other school personnel.

(4) Coordination of speech and language services with an individual's regular and special education program.

(b) Caseloads of full-time equivalent language, speech and hearing specialists providing instruction and services within the district, SELPA, or county office shall not exceed a district-wide, SELPA-wide, or county-wide average of 55 individuals unless prior written approval has been granted by the SSPI.

(c) Language and speech development and remediation shall be provided only by personnel who possess:

(1) a license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs; or

(2) a credential authorizing language or speech services.

(d) Services may also be provided by speech-language pathology assistants working under the direct supervision of a qualified language, speech, and hearing specialist, as defined in Business and Professions Code section 2530.2(i), and if specified in the IEP. No more than two assistants may be supervised by one qualified language, speech, and hearing specialist. The caseloads of persons in subdivision (b) shall not be increased by the use of assistants.

Note: Authority cited: Sections 56100 and 56366.1, Education Code. Reference: Section 2530, Business and Professions Code; Sections 56363 and 56363.3, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

California Code of Regulations Title 5, Section 3030, further defines the criteria for eligibility as speech and language disordered pupils:

(a) 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 disorder.

(A) The pupil displays reduced intelligibility or inability to use the speech mechanism, which significantly interferes with communication and attracts adverse attention. Significant interference 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 an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

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

(3) Fluency Disorder. A pupil has a fluency disorder when the flow of verbal expression, including rate and rhythm, adversely affects communication between the pupil and listener.

(4) Language Disorder: The pupil has an expressive or receptive language disorder when he or she meets 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 (*meaningful units of words*), syntax (*grammar/sentence structure*), semantics (*vocabulary*), or pragmatics (*functional or social language*). 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 subdivision (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 50 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.

Because the eligibility criteria above specifies that scores may be compared to “chronological age or developmental level”, if there is not a referral to determine eligibility for other disabilities the SLP will request a cognitive assessment on the evaluation plan to be given by qualified personnel, unless equivalent cognitive or adaptive behavior assessment results are available.

Note: Students may be eligible for speech/language services either with Speech or Language Impairment as the primary handicapping condition or as a related service under another identified disability.

III. Eligibility Requirements for Preschool Children

Eligibility Requirements for Preschool Children Education Code 56441.11 states:

- (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision
- (b) Shall apply to preschool children, between the ages of three and five years. (b) A preschool child, between the ages of three and five years, 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, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):
 - (A) Autism
 - (B) Deaf-blindness
 - (C) Deafness
 - (D) Hearing impairment
 - (E) Intellectual disability

- (F) Multiple disabilities
 - (G) Orthopedic impairment
 - (H) Other health impairment
 - (I) Serious emotional disturbance
 - (J) Specific learning disability
 - (K) Speech or language impairment in one or more of voice, fluency, language and articulation
 - (L) Traumatic brain injury
 - (M) Visual impairment
 - (N) Established medical disability
- (2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.
 - (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 individualized education program team pursuant to Section 56431.
 - (4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.
- (c) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:
- (1) Unfamiliarity with English language
 - (2) Temporary physical disabilities
 - (3) Social maladjustment
 - (4) Environmental, cultural, or economic factors
- (d) For purposes of this section, "established medical disability" is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.
- (e) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

IV. Definition of Eligible Infant or Toddler

California Government Code Section 95014 reads,

(a) The term “eligible infant or toddler” for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1471 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 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. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents.
- (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. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.
- (3) Infants and toddlers who are at high risk of having 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.

V. Referral Process for Articulation, Voice, Fluency, Phonology or Language Concerns

After the teacher or parent notifies the Speech Language Pathologist (SLP) about concerns, the SLP may observe, screen, and/or provide teacher with an observation/modification checklist. Then the SLP informs the teacher and parents of results. If concerns can be addressed through regular education interventions, suggestions are also sent to teacher and parents. If concerns appear to be more significant or persistent, the student may be referred to be further assessed given that the parent consents.

VI. Eligibility and Service Delivery

Assessments must be conducted by a credentialed Speech Language Pathologist. 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.

Service Delivery options include direct, indirect, collaboration/consultation and inclusion and may occur across a variety of settings (related service provider location, regular or special education classroom, other school settings).

VII. Considerations for English Language Learners

Students who may have language needs when there is evidence of a second language are not necessarily seen by the SLP. Background information from parents and teachers is critical in assessing the student's needs. The Home Language Survey is informative in providing data that documents a second language. This survey can be found in the student's cumulative folder.

Basic interpersonal communication skills are acquired generally within two years of exposure to the English language. It is not until 5-7 years of exposure and instruction in English that cognitive/academic language proficiency is acquired. The rate of learning is not based on chronological age. This information is significant in determining the proper time for intervention.

Language testing must demonstrate a delay in the student's native language as determined by assessment in the native language or with an interpreter, as well as a delay in English to indicate a need for speech services. Dynamic assessment, including utilization of an interpreter for assessment in the student's native language and materials available in the Communication Severity Scales (e.g., English Learner Analysis, TESOL Second Language Acquisition Stages, Acculturation Quick Screen, Parental Report of Child Speech or Language Problems questionnaire, Dynamic Assessment criterion-based measure, Student Oral Language Observation Matrix) should be considered in completing an evaluation to determine language delay versus language difference.

VIII. General Criteria to Exit and Dismiss Students from Speech and Language Services

The IEP team determines that speech and language services are no longer required to obtain educational benefit in the areas of academics, behaviors and/or socialization.

The following factors should be considered:

- a. According to the Code of Federal Regulations (Section 300.305(e)(1)), students must be assessed prior to exiting special education services.
- b. Communication skills are commensurate with chronological age or developmental level and the child no longer displays a speech/language disability.
- c. IEP goals have been met and the student no longer requires speech and language services to benefit from his or her educational program.
- d. The student may have a speech/language disability, but his or her needs can be met in a language-enriched environment.

When viewing the student's speech/language needs as a whole, other educational needs have priority.

Physiological factors (e.g., motor impairment, laryngeal pathology) have been subsequently identified.

RESOURCES - PUBLICATIONS

- California Speech-Language Hearing Association <http://www.csha.org/>
- American Speech-Language-Hearing Association www.asha.org
 - Frequently Asked Questions: Speech and Language Disorders in the School Setting
<http://www.asha.org/public/speech/development/schoolsFAQ/>
 - **New continuous publication model through called LANGUAGE SPEECH, AND HEARING SERVICES IN SCHOOLS (LSHSS). This site provides the latest journal articles with the most-up-to-the-minute view of research, ideas, and discussion in the field of Communication Sciences and Disorders.**
<http://lshss.pubs.asha.org/>
 - Information for Speech-Language Pathologists at <http://www.asha.org/slp/>
- Special Education Guide - Speech and Language Impairments (Author: Zachery Fenell)
<http://www.specialeducationguide.com/disability-profiles/speech-and-language-impairments/>
- Riverside County Special Education Local Plan Area (SELPA) “Program Guidelines for Speech Language Pathologists” (2014)
<https://www.rcselpa.org/resources/resources/2018%20Program%20Guidelines%20for%20Speech%20Language%20Pathologists%206-18.pdf>

LOW INCIDENCE DISABILITIES

I. Overview

“Low incidence disability” means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in special education. For purposes of this definition, severe disabling conditions are listed below.

- Hearing Impairments (Hard of Hearing, Deaf)
- Vision Impairments
- Severe Orthopedic Impairments
- Any combination thereof (e.g. Deaf-Blind)

Excludes visual perception problems specified in California Education Code (EC) Section (§) 56338.

Disability 1 is the main disability of the student contributing to his/her eligibility for special education and related services. A student can have more than one type of disability. When one or more of the disabilities is a low-incidence disability, then one low-incidence disability should be reported as the primary or Disability 1 and the second disability would be reported as the secondary or Disability 2. If a student has multiple disabilities (including a disability that is not “low-incidence”), it is important to make sure that the low incidence disability is reported as either Disability 1 or Disability 2, as funding is received for low incidence services/devices based on prior year December pupil count.

- A. Hard of Hearing (HH):** Hard of Hearing means hearing, impairment, whether permanent or fluctuating, that adversely affects a child's educational performance, but that is not included under the definition of "deaf" in this section.
- B. Deafness (DEAF):** Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance. (34 Code of Federal Regulations [CFR] § 300.7(c)(3)) **Hearing Impairment (HI):** Hearing Impairment is a federal category of disability, which includes both hard of hearing and deaf individuals as defined above.
- C. Visual Impairment (VI):** Visually Impaired, including blindness, means impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children. (34 CFR § 300.7(c)(13))
- D. Orthopedic Impairment (OI):** 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, absence of some member, etc.); impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.); and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures). (34 CFR § 300.7(b))

and 300.7(c)(8))

- E. Deaf-Blindness (DB):** 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. (34 CFR § 300.7(c)(2))

II. Low Incidence Services

A student with a specified low incidence disability typically receives one or more of the services listed below:

Code 610: Specialized Services for Low Incidence Disabilities

Low incidence services are defined as those provided to the student population of orthopedically impaired (OI), visually impaired (VI), deaf, hard of hearing (HH), or deaf-blind (DB). Typically, services are provided in education settings by an itinerant teacher or the itinerant teacher / specialist. Consultation is provided to the teacher, staff and parents as needed. These services must be clearly written in the student's IEP, including frequency and duration of the services to the student. (California Code of Regulations [CCR] Title 5 §§ 3051.16 & 3051.18)

Code 710: Specialized Deaf and Hard of Hearing/Hearing Impairment Services

These services include speech therapy, speech reading, auditory training and/or instruction in the student's mode of communication. Rehabilitative and educational services; adapting curricula, methods, and the learning environment; and special consultation to students, parents, teachers, and other school personnel may also be included. (CCR Title 5 § 3051.16 and 3051.18)

Code 715: Interpreter Services

Sign language interpretation of spoken language to individuals, whose communication is normally sign language, by a qualified sign language interpreter. This includes conveying information through the sign system of the student or consumer and tutoring students regarding class content through the sign system of the student. (CCR Title 5 § 3051.16)

Code 720: Audiological Services

These services include measurements of acuity, monitoring amplification, and frequency modulation system use. Consultation services with teachers, parents or speech pathologists must be identified in the IEP as to reason, frequency and duration of contact; infrequent contact is considered assistance and would not be included. (CCR Title 5 § 3051.2).

Code 725: Specialized Vision Services

This is a broad category of services provided to students with visual impairments. It includes assessment of functional vision; curriculum modifications necessary to meet the student's educational needs, including Braille, large type, and aural media; instruction in areas of need; concept development and academic skills; communication skills (including alternative modes of reading and writing); social, emotional, career, vocational, and independent living skills. It may include coordination of other personnel providing services to the students (such as

transcribers, readers, counselors, orientation and mobility specialists, career/vocational staff, and others) and collaboration with the student's classroom teacher. (CCR Title 5 § 3030(d), Education Code [EC] § 56364.1)

Code 730: Orientation and Mobility

Students with identified visual impairments are trained in body awareness and to understand how to move. Students are trained to develop skills to enable them to travel safely and independently around the school and in the community. It may include consultation services to parents regarding their children requiring such services according to an IEP.

Code 735 Braille Transcription

Any transcription services to convert materials from print to Braille. It may include textbooks, tests, worksheets, or anything necessary for instruction. The transcriber should be qualified in English Braille as well as Nemeth Code (mathematics) and be certified by appropriate agency.

Code 740: Specialized Orthopedic Services

Specially designed instruction related to the unique needs of students with orthopedic disabilities, including specialized materials and equipment. (CAC Title 5, §§ 3030(e) & 3051.16)

Code 745: Reader Services

Code 750: Note Taking Services

Any specialized assistance given to the student for the purpose of taking notes when the student is unable to do so independently. This may include, but is not limited to, copies of notes taken by another student, transcription of tape-recorded information from a class, or aide designated to take notes. This does not include instruction in the process of learning how to take notes.

Code 755: Transcription Services

Any transcription service to convert materials from print to a mode of communication suitable for the student. This may also include dictation services as it may pertain to textbooks, tests, worksheets, or anything necessary for instruction.

III. Legal Requirements

(Source: Riverside County Special Education Local Plan Area (SELPA) “Low Incidence Policy, Procedures and Guidelines)

- EC § 56320(g) requires that: "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 consistent with guidelines established pursuant to § 56136."
- EC § 56327(h) states, the personnel who assess the pupil shall prepare a written report, as appropriate, of the results of each assessment. The report shall include, but not be

limited to, all of the following: "The need for specialized services, materials, and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to § 56136."

- Per EC § 56345(b)(5) "when appropriate, the IEPs for pupils with low incidence disabilities shall also include specialized services, materials, and equipment, consistent with guidelines established. "As appropriate, the team is required to consider Braille instruction for students who are blind or visually impaired, and language and communication needs for students who are deaf or hard of hearing."
- EC § 56363.1 states a local educational agency (LEA) is not required to purchase medical equipment for an individual pupil. However, the LEA is responsible for providing other specialized equipment for use at school that is needed to implement the IEP. For example, EC § 56345(d)(5) states, "each public agency shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly". In addition, the Individuals with Disabilities Education Act (IDEA) requires that the IEP team consider whether the child requires assistive technology devices and services for all students with disabilities.
- EC § 56136 requires the Superintendent of Public Instruction to "develop guidelines for each low incidence disability area and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines."
- EC § 56206 states, "As a part of the local plan submitted pursuant to § 56200, each SELPA shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated sites and maximizes the opportunities to serve pupils in the least restrictive environment."
- EC § 56363 clarifies that the term "designated instruction and services" means "related services". The term "related services" means transportation, and such developmental, corrective, and other supportive services 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. These services may include, but are not limited to, the following:

(1) language and speech development and remediation, (2) audiological services, (3) orientation and mobility services, (4) instruction in the home or hospital, (5) adapted physical education, (6) physical and occupational therapy, (7) vision services, (8) specialized driver training instruction, (9) counseling and guidance services (including rehabilitation counseling), (10) psychological services other than assessment and development of the individualized education program, (11) parent counseling and training, (12) health and nursing services (including school nurse services designed to enable an individual with exceptional needs to receive a FAPE as described in the IEP), (13) social worker services, (14) specially designed vocational education and career development, (15) recreation services, (16) specialized services for low-incidence disabilities (such as readers, transcribers, and vision and hearing services), (17)

interpreting services, and (18) medical services (except that such medical services shall be for diagnostic and evaluation purposes only).

It is therefore important that specialized teachers who are credentialed to serve students with specific low incidence disabilities be involved in the team assessment process and attend the IEP meetings so that books, materials and equipment considered for purchase and the offer of services are related directly to the unique educational needs resulting from a low incidence disability.

RECOMMENDED IEP LANGUAGE

(Source: Riverside County SELPA “Low Incidence Policy, Procedures and Guidelines”)

Provided below is some language about what and where to note information within an Individualized Education Program (IEP).

Deaf and Hard of Hearing (DHH)

For Audiological: Indicate annual audiological assessment in both the services and assessment area – Remember this requires a Prior Written Notice (PWN). If audiological equipment needs regular fitting or adjusting, write a goal and indicate this as a direct service on the service page, with details in the summary notes. If only consultation (with parent, teacher, Related Service provider, and/or doctor) is to be provided, indicate this under supplemental aids and services, including frequency, duration and location.

For DHH Itinerant: Since consultation (w/teachers, Related Service provider) is embedded in the CALPADS services description, it can be coded under services – Remember it must be specific in frequency, duration and location. Consultation (with whom; for what) can also be cited under supplementary aides and services. Direct service with student must be cited in services with minimum frequency. Include descriptors individualized for each child in the Comment Continuation page (e.g., services will include A, B, C).

Blind / Visually Impaired (VI)

For example, there are many apps on I-PAD/Chromebook for VI. Use of a “Braille Note” may be an exception to a need for an Assistive Technology (AT) assessment when the use of Braille is predetermined. The assessor must identify the student’s needs and make recommendations in a written report to the student’s district of residence. Any expenditure for low incidence AT equipment and/or services needs to be authorized by the student’s district of residence. AT equipment can then be identified in the special factors section of an IEP and/or in the appropriate low incidence consideration box, with specifics included in the notes page.

Since consultation (i.e., with teachers about instructional materials and books) is embedded in the CALPADS services description, it can be coded under services – it must be specific in frequency, duration and location. Consultation (with whom; for what) can also be cited under supplementary aides and services. Direct service with a VI student must be cited in services with minimum frequency (i.e., Braille instruction may be daily whereas large print books may be adjusted each

semester). Include descriptors individualized for each child in the Comment/Continuation page (i.e., services will include A, B, C).

Orthopedic Impairment (OI)

When a child has been identified with multiple disabilities as the primary disability, support from an OI Specialist is not required. When OI is the designated disability, an evaluation is needed to determine what level of support is required. Remember to always use the Assessment Plan and Prior Written Notice and create a written report for LEA.

On the services page, consultation (with teacher, parent, and/or campus personnel) goes under supplementary aids services with specific frequency duration and location. Direct services to student could be OI equipment (4 times a year) or direct positioning (can put specifics in notes that allow for variance in time as training on equipment decreases).

ASSISTIVE TECHNOLOGY GUIDELINES

I. Purpose

These special education assistive technology guidelines have been developed to provide assistance to individualized Education Program (IEP) teams when determining whether a student with disabilities requires assistive technology devices and services in order to receive a free appropriate public education (FAPE) as required by the Individuals with Disabilities Education Act (IDEA). These guidelines have also been developed to provide uniform documentation across the SELPA.

II. Free Appropriate Public Education (FAPE)

As part of FAPE, assistive technology devices and/or services are made available to a student with a disability at no charge to the family of the student, if required as part of the student's special education program and /or related services, as specified in his/her Individualized Education Program (IEP).

A. Infants and Toddlers

Infants and toddlers (children under three years of age) with disabilities are at risk of experiencing a substantial developmental delay if early intervention services are not provided. The District provides early intervention services to infants and toddlers with vision impairments, hearing impairments, and/or severe orthopedic impairments. (Infants and toddlers with other types of disabilities are served through the Regional Center system.) Early intervention includes assistive technology devices and assistive technology service, if they are required for the infant or toddler to benefit from the early intervention. Documentation of the need for assistive technology is made on the child's Individualized Family Service Plan (IFSP). Procedures for assessing and documenting the assistive technology needs of infants and toddlers with disabilities should be generally consistent with the Guidelines for IEP Teams described below.

B. Students Ages 16 and Older

IDEA requires that beginning at age 16, a student's IEP must have a statement of the transition service needs of the student that focuses on the student's courses of study. A statement of needed transition services (Individual Transition Plan (ITP) for the student must be included on the IEP, including a statement of interagency responsibilities for the provision of assistive technology devices and services.

Assistive technology devices and services provided for a student enrolled in the District generally must be returned to the District upon graduation. However, if assistive technology devices and services have been provided as part of the student's school program but are essential to a smooth transition beyond graduation, a determination regarding continued need after graduation must be made by the IEP team.

Provisions for non-school support for assistive technology devices and services, after graduation, should be specified as part of the ITP, when appropriate, to assist the student in obtaining such devices and services when he/she leaves school.

C. Home Use

IDEA regulations require that if the IEP team determines that a particular assistive technology device is required for home use in order for the student to achieve the goals and objectives on the IEP, the equipment must be provided for use at home. The IEP team should base its decision for home use on the educational and instructional activities that need to be completed outside of the school setting.

D. Section 504

Students with disabilities who do not require special education or do not meet the eligibility requirements of IDEA are entitled to assistive technology devices and services if it is determined by a Section 504 team that assistive technology devices and services are a reasonable accommodation under Section 504 of the Rehabilitation Act. In considering the need for assistive technology devices and services, a Section 504 team should, in general, use the following Guidelines for IEP teams regarding assistive technology.

III. Funding Assistive Technologies

A. Low Incidence Funding: To be eligible for funding to support specialized book, materials, and equipment as required by a student with a low incidence disability, the following must occur:

- A determination by the IEP team, including the school nurse, that the student has a severe disabling condition. Low incidence disabilities include hearing, vision and orthopedic disabilities, or any combination thereof – as a primary or secondary disability.
- An assessment conducted by a team consisting of the classroom and/or special education teacher(s) and the appropriate related services provider(s) for speech, hearing, vision, occupational therapy, and/or physical therapy.
- A presentation of the written assessment report to the student's IEP.

Documentation of the determination by the IEP team that specialized equipment (assistive technology) is needed.

IV. Guidelines for IEP Team

The need for AT should be an integral part of a comprehensive assessment for students in all areas related to his/her disability and educational needs if the student is or may be eligible for special education services. AT considerations should be part of a collaborative school-based approach that includes service providers who are knowledgeable of the disability

and the aspects of AT associated with the disability. In some cases, school site staff may not have sufficient knowledge to make appropriate assistive technology recommendations by themselves for those students with more complex needs. Assistance should be requested from the LEA's Special Education Department when conducting assessments for these students.

AT is one aspect of a multi-faceted approach to addressing the strengths and needs of a student with disabilities. The level of assistance needs to be considered in relation to the student's learning potential, motivation, chronological age, developmental level, and curriculum access needs. AT is a tool for access that will change over time as the student's needs change and as advancements are made in technology.

The definition of AT in the law is broad and includes almost any type of device or service used to support the education of a student with a disability. The word "technology" in the phrase assistive technology does not imply a requirement for electronic components. For all students with disabilities, it is important for IEP teams to recognize that AT encompasses a range from the low end of devices (e.g., picture boards, wide-lined paper, pencil grips, calculators) to the high end which may include computers or devices with computer components.

AT is not educational technology. Educational technology (hardware and software) functions as a supplement to the curriculum. It reinforces concepts taught and is one of the many instructional tools available to a teacher. Educational technology should not be specified in the IEP.

IEP teams are required to consider the need for AT. AT considerations must address the student's need to access curriculum. IEP teams must ask the question, "What does the student need to do that he/she cannot do because of his/her disability?" Consideration does not imply a mandate for an AT assessment or for the actual provision of devices for every child with a disability. For example, if a student's performance is functional in relation to curriculum goals, the consideration should be brief and consensus should be reached relatively quickly with the conclusion that AT is not needed at this time.

In some cases, the IEP team consideration may lead to a recommendation for a short-term trial with new strategies or devices available at the school. Such trials should be written into an IEP goal with a time frame and measurable criteria to evaluate progress. The IEP team should plan a subsequent IEP meeting to review the results of the trial period or to provide other considerations for AT.

IEP teams must specify the type of device the student needs (e.g., pencil grips, word processing software, augmentative and alternative communication system). The IEP should not specify brand names.

A. Prior to IEP Meeting

Every IEP team member is responsible for the consideration of a student's need for assistive technology. In order for that consideration to be valid, information and documentation shall be collected prior to the IEP meeting regarding the child's

strengths and functional needs. Include information about the adaptations, accommodations, and AT options that have been tried to date.

In addition, school personnel should attend the IEP meeting with knowledge of school site resources and options, if the need for additional adaptations, accommodations, and/or equipment trials is anticipated.

B. During the IEP Meeting

IEP members will do the following:

1. During discussion of present levels of performance, present the information gathered prior to the IEP meeting, and record that information in Section E of the IEP for each performance area, as appropriate.
2. If the IEP team recommends that the student does not require AT devices or services, so document.
3. If the IEP team recommends AT devices and services for the student, the team will:
 - a. Write a statement in the IEP for the specific performance skill area indicating the type of AT which will be used and the rationale for use.

Example: Joey has fine motor weaknesses. The classroom teacher has provided Joey with primary pencils, a slant board, and wide-lined paper to facilitate manual writing. Joey has improved ability to produce legible writing.

- b. Write a goal statement in Section, Annual Goals/Objectives, incorporating the AT selected.

Example:
Performance Area identified: Writing
Annual Goal: Using primary pencil, slant board, and wide lined paper, Susan will write _____ (#) spelling words per day with _____ % accuracy _____ times.

- c. Record a statement referring to information in performance area.

Example:
Assistive Technology Devices yes no
Area of assessed need is writing. Recommended devices are primary pencil, slant board, wide lined paper.

4. If the IEP team determines that it needs assistance in exploring additional AT options for a student, it needs to:

- a. Write a statement in the specific performance area section describing what specialized equipment and accommodations have been tried, by whom, and the results.
- b. State that additional assistance will be requested indicating the specific performance area (i.e., reading, math, etc.) and the functional access area of need (i.e., hearing, vision, speech, motor skills, etc.).

Example:

The classroom teacher has used a variety of devices to improve the student's ability in the performance area of writing. Sam has used primary pencils, a slant board and wide-lined paper. Strategies have included a reduction in the number of task items, increased time to complete tasks, and hand-over-hand assistance in writing. Student's written work continues to be below grade level. School site team will conduct an assessment in conjunction with the AT program to determine if S. can benefit from additional devices or services

- c. Complete an assessment plan to be implemented by school-site personnel in consultation with appropriate staff from the AT and/or Related Services programs. The school site assessment team shall consist of the classroom teacher and/or special education teacher and the appropriate Related Services provider(s).
- d. Indicate that an additional assessment for assistive technology is recommended. The person at the school site who will be responsible for the assessment should be listed with his/her position and the due date (within 60 days of signed assessment plan).
- e. An IEP amendment meeting is held to review the assessment results when the AT evaluation is completed. The school site assessment team shall provide a written report and make recommendations to the IEP team. The IEP team has the responsibility to determine which, if any, recommendations will be followed. If the IEP team recommends that the student needs AT devices or services, it must complete an amendment to the IEP that includes the information in #3 above.

C. After the IEP

If an IEP team determines that a student requires an assistive technology device or service, it is the responsibility of the school to:

1. Provide or arrange for the provision of any needed staff development regarding the use of the device(s).
2. Provide or arrange for the training of the student in the use of the device(s).
3. Maintain the device(s) in good working order.

4. Evaluate and document the effectiveness of the device on an ongoing basis and present such information at the IEP review.
5. If attempts to use school-based AT resources are not successful, an IEP team may request a more in-depth AT assessment from the District-wide programs.
6. Arrange for the transport of the device(s) when the student transfers or transitions to a different school within the SELPA or when the device(s) are needed for participation in the Extended School Year (ESY).
7. Return equipment to the LEA Special Education Office or SELPA Office for use by another student, if a determination has been made by the IEP team that the student is not benefiting from the equipment or that it is no longer needed.

D. Parent Request For an Assistive Technology Assessment

Parents have a right to request an assessment of their child, including an assessment for assistive technology. When a parent makes such a request, the following procedures are to be followed, unless there is a substantial basis for believing that an assessment is not necessary and the parent is so informed in writing:

1. School personnel must complete the assessment plan, specifying the area of need (i.e., assistive technology for writing, assistive technology for oral communication, etc.).
2. School personnel are to follow the same steps identified previously in the Assistive Technology Guidelines for:
 - a. Forming a school site assessment team;
 - b. Collecting information about what accommodations have been made to date, and documenting such information;
 - c. Writing an assessment report;
 - d. Holding an IEP meeting to review the assessment results;
 - e. Recommending and providing devices and services.

Butte County SELPA Assistive Technology Considerations Chart

On the following pages, two Assistive Technology checklists have been reprinted and provided for your use. These include:

1. The QIAT Community. © *Quality Indicators for Assistive Technology Services Self-Evaluation Matrices*. For more information, visit the QIAT web site at
<http://www.qiat.org>
Updated April 2015

2. California Department of Education. *Assistive Technology Checklist*, Updated May 2016.
<http://www.cde.ca.gov/sp/se/sr/atexpl.asp>

Other resources for reference purposes include:

- Wisconsin Assistive Technology Initiative (WATI) – Innovative practices and assistive tools.
www.wati.org

- SETT FRAMEWORK DOCUMENTS developed by Joy Smiley Zabala, Ed.D.
<http://www.joyszabala.com/>

- Council for Exceptional Children (CEC) “Assistive Technology Consideration Quick Wheel” is Specially designed to help IEP teams as they consider the student’s need for assistive technology, the wheel presents valuable information about AT and useful resources in an easy-to-understand format.

<https://www.atprogramnews.com/2010/09/assistive-technology-consideration-quick-wheel.html>

- AbleData is a searchable database for thousands of devices.

<https://abledata.acl.gov/>

- Assistive technology blog

www.closingthegap.com

Quality Indicators for Consideration of Assistive Technology Needs

QUALITY INDICATOR	VARIATION				
	UNACCEPTABLE	S			PROMISING PRACTICES
1. Assistive technology (AT) devices and services are <u>considered for all students with disabilities</u> regardless of type or severity of disability.	1	2	3	4	5
	AT is not considered for students with disabilities.	AT is considered only for students with severe disabilities or students in specific disability categories.	AT is considered for all students with disabilities but the consideration is inconsistently based on the unique educational needs of the student.	AT is considered for all students with disabilities and the consideration is generally based on the unique educational needs of the student.	AT is considered for all students with disabilities and the consideration is consistently based on the unique educational needs of the student.
	1	2	3	4	5
	No process is established for IEP teams to use to make AT decisions.	A process is established for IEP teams to use to make AT decisions but it is not collaborative.	A collaborative process is established but not generally used by IEP teams to make AT decisions.	A collaborative process is established and generally used by IEP teams to make AT decisions.	A collaborative process is established and consistently used by IEP teams to make AT decisions.
	1	2	3	4	5
The team does not have the knowledge or skills needed to make informed AT decisions. The team does not seek help when needed.	Individual team members have some of the knowledge and skills needed to make informed AT decisions. The team does not seek help when needed.	Team members sometimes combine knowledge and skills to make informed AT decisions. The team does not always seek help when needed.	Team members generally combine their knowledge and skills to make informed AT decisions. The team seeks help when needed.	The team consistently uses collective knowledge and skills to make informed AT decisions. The team seeks help when needed.	
4. Decisions regarding the need for AT devices and services are <u>based on the student's IEP goals and objectives, access to curricular and extracurricular activities, and progress in the general education curriculum.</u>	1	2	3	4	5
	Decisions about a student's need for AT are not connected to IEP goals or the general curriculum.	Decisions about a student's need for AT are based on either access to the curriculum/IEP goals or the general curriculum, not both.	Decisions about a student's need for AT sometimes are based on both the student's IEP goals and general education curricular tasks.	Decisions about a student's need for AT generally are based on both the student's IEP goals and general education curricular tasks.	Decisions about a student's need for AT consistently are based on both the student's IEP goals and general education curricular tasks.

Quality Indicators for Consideration of Assistive Technology Needs

QUALITY INDICATOR	VARIATIONS				
	UNACCEPTABLE	—————▶			PROMISING PRACTICES
5. The IEP team <u>gathers and analyzes data about the student, customary environments, educational goals, and tasks when considering a student's need for AT devices and services.</u>	1 The IEP team does not gather and analyze data to consider a student's need for AT devices and services.	2 The IEP team gathers and analyzes data about the student, customary environments, educational goals or tasks, not all, when considering a student's need for AT devices and services.	3 The IEP team sometimes gathers and analyzes data about the student, customary environments, educational goals and tasks when considering a student's need for AT devices and services.	4 The IEP team generally gathers and analyzes data about the student, customary environments, educational goals and tasks when considering a student's need for AT devices and services.	5 The IEP team consistently gathers and analyzes data about the student, customary environments, educational goals and tasks when considering a student's need for AT devices and services.
6. When AT is needed, the IEP team <u>explores a range of AT devices, services, and other supports that address identified needs.</u>	1 The IEP team does not explore a range of AT devices, services, and other supports to address identified needs.	2 The IEP team considers a limited set of AT devices, services, and other supports.	3 The IEP team sometimes explores a range of AT devices, services, and other supports.	4 The IEP team generally explores a range of AT devices, services, and other supports.	5 The IEP team always explores a range of AT devices, services, and other supports to address identified needs.
7. The AT consideration process and <u>results are documented in the IEP and include a rationale for the decision and supporting evidence.</u>	1 The consideration process and results are not documented in the IEP.	2 The consideration process and results are documented in the IEP but do not include a rationale for the decision and supporting evidence.	3 The consideration process and results are documented in the IEP and sometimes include a rationale for the decision and supporting evidence.	4 The consideration process and results are documented in the IEP and generally include a rationale for the decision and supporting evidence.	5 The consideration process and results are documented in the IEP and consistently include a rationale for the decision and supporting evidence.

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Assistive Technology Checklist

From the California Department of Education: <https://www.cde.ca.gov/sp/se/sr/atempl.asp>

A list intended to provide examples of assistive technology.

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 _____

The [Wisconsin Assistive Technology Initiative \(WATI\)](#)  provides information about other materials that have been developed, and has available for downloading a copy of Resource Manual for Assessing Student's Needs for Assistive Technology.

EXTENDED SCHOOL YEAR (ESY)

I. Understanding the Legal and Practical Aspects of Extended School Year (ESY)

The legal and practical aspects of understanding ESY include the relevant federal regulations, California Code of Regulations, case law clarifications, and practical implications of what ESY is and is not.

II. Federal Regulations

Title 34 of the Code of Federal Regulations (CFR) defines extended school year services as,

§ 300.106 Extended School Year Services

(a) *General.*

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, 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) *Definition.* 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.

(Authority: 20 U.S.C. 1412(a)(1))

III. California Code of Regulations

Title 5 of the California Code of Regulations (CCR) defines extended school year as,

§ 3043. Extended School Year

Extended school year services shall be provided, in accordance with 34 C.F.R. section 300.106, 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 disabilities 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 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. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the IEP team determines the need for such a program and includes extended school year in the IEP pursuant to subdivision (e).

- (a) Extended year special education and related services shall be provided by a school district, SELPA, 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
 - (2) Are individuals with exceptional needs whose IEPs specify an extended year program as determined by the 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.
- (e) An extended year program, when needed, as determined by the IEP team, shall be included in the pupil's IEP.
- (f) 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 IEP 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.
- (g) 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 IEP 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.

Note: Authority cited: Section 56100, Education Code. Reference: Sections 37600, 41976.5 and 56345, Education Code; and 34 C.F.R. Section 300.106.

IV. Possible Predictive Factors in Determining if ESY Services are Necessary:

(Johnson v. Indep. Sch. Dist. No. 4, 17 IDELR 170 (10th Cir. 1990), cert. denied, 110 LRP 38025, 500 U.S. 905 (1991))

A. Type and Severity

- In what ways does the student’s disability and/or intensity of needs impact the maintenance of learned skills?

B. Behavioral/Physical

- Are there behavioral or physical factors that negatively impact the student’s ability to maintain learned skills?
- Have there been extended absences that impact ability to maintain learned skills?
- Have there been major life events that impact ability to maintain learned skills?
- Have there been significant behavioral challenges that interfere with the maintenance of learned skills?

C. Alternative Resources

- What community/home resources are already planned or could be available in order for the student to maintain learned skills?
- How does the parents’ ability to provide educational structure at home impact the child’s ability to maintain learned skills?

D. Ability to Interact with Nondisabled Peers

- Does the lack of opportunities for the student to interact with nondisabled peers significantly interfere with maintenance of learned skills?
- What community/home support is needed to provide necessary opportunities for the student?

E. Curriculum that Needs Continuous Attention

- Are there any objectives on the IEP that require ongoing support in order to maintain learned skills?
- Are there other elements of the IEP (such as a behavior plan or health care plan that require ongoing support in order to maintain learned skills?

F. Vocational Needs

- Does the student require ongoing support in order to maintain learned vocational skills?

G. Extraordinary vs. Integral

- What support/services are essential, as well as reasonable, to meet this student’s individual needs in order to maintain learned skills?

H. Child’s Rate of Progress

- How does the length of time that the student takes to learn a skill negatively impact the maintenance of learned skills?

I. Other Relevant Factors –

- Has anything occurred additionally throughout the year that ought to be considered?

V. Practical Implications: What ESY IS and IS NOT (Source: Riverside County SELPA)

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 where regression, due to extended time off, may occur.
- Based on multi-criteria and not on a single factor.
- 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 the child exited with at the end of the school year.

Extended School Year (ESY) Is Not:

- A mandated 12-month service for all students with disabilities.
- Required to function as a respite care service.
- Funded by General Fund.
- Required or intended to maximize educational opportunities for any student with disabilities.
- Necessary to continue instruction on all the previous year's IEP goals during the ESY period.
- 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.
- Required solely when a child fails to achieve IEP goals and objectives during the school year.
- To be considered in order to help students with disabilities advance in relation to their peers.
- For those students who exhibit random regression solely related to transitional life situation or medical problems which result in degeneration.
- Subject to the same least restrictive environment (LRE) environment considerations as during the regular school year as the same LRE options are not available. Additionally, LRE for some students may be home with family members.
- A summer recreation program for students with disabilities.
- To provide a child with education beyond that which is prescribed in his/her IEP goals and objectives.
- For making up for poor attendance during regular school year.
- The primary means for credit recovery for classes failed during the regular school year.

VI. WHAT IS THE DIFFERENCE BETWEEN ESY & SUMMER SCHOOL?

(Source: Riverside County SELPA)

ESY services are special education and related services that are required by an individual with exceptional needs beyond the regular school year. Such individuals shall have disabilities which are likely to continue indefinitely or for prolonged periods, and interruption of the pupil's educational programming may cause regression, when couple 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 disability. It is the issues of regression and recoupment that provide a framework upon which to base discussion about the need for the student to receive special education support beyond the regular school year.

If the student does not require ESY, the student could be considered for regular summer school or regular summer intervention program services offered within the school district. Summer school classes are not special education, are not required, are not based upon a child's individual needs, do not require an IEP, and are not required in order for a child to receive FAPE. While summer school usually focuses on opportunities for secondary students to recover credits, summer intervention programs generally focus on the development of skills that students at risk of retention need in order to progress. Given that, summer intervention classes may very well be appropriate for students with disabilities who are working toward grade level standards.

Several court cases have referred to the "availability of alternative resources" when considering ESY services. The LEA could consider community programs that are available to students. The LEA must be cautious when identifying services provided by community agencies such as a Parks and Recreation program. These outside agencies have no requirement to maintain the student in their program.

VII. RESOURCES

Riverside County Special Education Local Plan Area (SELPA), "Guidelines for Determining Need for Extended School Year (ESY) Services" – specifically for a summary of due process cases and court decisions related to determining what constitutes Free Appropriate Education (FAPE) and guidance for IEP Teams as to ESY eligibility determination.

The link to this source is: **Guidelines for Determining Need for Extended School Year (ESY)**

www.rcselpa.org/common/pages/DisplayFile.aspx?itemId=1498046

SPECIAL EDUCATION TRANSPORTATION

Special Education Transportation Guidelines

The “Special Education Transportation Guidelines” were updated by the California Department of Education on March 29, 2011. The Guidelines are reprinted below and are for use by Individualized Education Program (IEP) Teams when determining required transportation services.

The website link is: <http://www.cde.ca.gov/sp/se/lr/trnsprtgdlns.asp>

California Education Code (EC) citations, including Code content, and *Code of Federal Regulations (CFR)* citations have been updated to reflect changes since October 2002.

Preface

EC Section 41851.2 (Assembly Bill 876 [Canella], Chapter 283, Statutes of 1991), required the State Superintendent of Public Instruction (SSPI) to develop special education transportation guidelines for use by individualized education program (IEP) teams that clarify when special education services are required.

The State Board of Education, Advisory Commission on Special Education, Special Education Local Plan Area (SELPA) Administrators, Special Education Administrators of County Offices (SEACO), Protection & Advocacy, Inc., Team of Advocates for Special Kids (TASK), school districts, County Offices of Education (COE), transportation offices, California Department of Education staff and other interested parties provided valuable contributions to the development of the 1993 Guidelines For Use By Individualized Education Program (IEP) Teams When Determining Required Transportation Services.

The guidelines should be utilized to plan and implement transportation services to pupils that require this service to benefit from special education instruction and/or related services.

Introduction

EC Section 56040 states: "Every individual with exceptional needs, who is eligible to receive special education instruction and related services under this part [Part 30] shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her." Special education transportation is defined in federal regulation [34 *CFR* Section 300.34(c)(16)] as a related service. Transportation is required to be provided as a related service if it is required to assist a child with a disability to benefit from special education. In addition, as required for any special education program, the service must be provided to meet the criteria for a free, appropriate public education as defined in federal regulation 34 *CFR* Section 300.17.

EC Section 41851.2 [(Assembly Bill (AB) 876 (Canella)], Chapter 283, Statutes of 1991), required that the SSPI develop special education transportation guidelines for use by IEP teams that clarify "when special education transportation services, as defined by *EC* Section 41850, are required." *EC* 41850(d) defines "special education transportation" as:

(1) The transportation of severely disabled special day class pupils, and orthopedically impaired pupils who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program.

(2) A vehicle that was used to transport special education pupils.

EC 41850(b) defines "home-to-school transportation services" for pupils with exceptional needs as:

(5) The transportation of individuals with exceptional needs as specified in their individualized education programs, who do not receive special education transportation as defined in subdivision (d).

Examples that IEP teams may consider under *EC* 41850(b) include pupils with severe disabilities who are not placed in special day classes or otherwise enrolled in programs serving pupils with profound disabilities, pupils with orthopedic disabilities who do not use wheelchairs or require lifts, students beginning special education who did not receive transportation under an IEP in the prior fiscal year, pupils with other health impairments, learning disabilities or other cognitive disabilities, or pupils who live beyond reasonable distance to their school and would not, without transportation, have access to appropriate special education instruction and related services at no cost.

Considerations for Use by Local Education Agencies, Special Education Local Plan Areas, County Offices Of Education and/or Transportation Cooperatives

It is recommended that these issues and concepts be taken under consideration by all LEAs, SELPAs, COEs and/or transportation cooperatives that provide any special education transportation in preparation for organizing a transportation system and providing services that will allow for students' placement in the least restrictive environment while also allowing for the most cost-effective special education transportation system.

Transportation Policies

Each LEA providing special education is required to adopt policies for the programs and services it operates, consistent with agreements with other districts or county offices and/or agreements stated as part of the local plan for special education (*EC* 56195.8). These policies describe how special education transportation is coordinated with regular home-to-school transportation and set forth criteria for meeting the transportation needs of pupils receiving special education [*EC* 56195.8(b)(5)]. It is recommended these policies focus upon pupil needs as the primary consideration for determining transportation services and that these policies also address the needs of pupils who may be eligible for transportation services as required by the Federal Rehabilitation Act of 1973, Section 504.

Delivery of Services

Districts/SELPAs/COEs responsible for implementation of IEPs should be knowledgeable of transportation policies and/or procedures that address the responsibilities of the IEP team in regard to transportation and the delivery of services to eligible students in their least restrictive environment.

This includes consideration of services that are provided in the setting appropriate to the needs of the student at the pupil's neighborhood school, or within the district or SELPA; regional and/or magnet programs and services may also be appropriate to the needs of the pupil. Consideration should be

taken regarding the effect that the location of a placement will have on the length of time that a student has to or from school each day. Placements should not be made solely on a "space available" basis. If a student is receiving services outside of his/her residence area, the placement should be reviewed at least annually in order to determine if a placement closer to the student's residence would be appropriate.

Location of Programs, Placement of Pupils

The efficiency of a transportation system for special education is partially dependent on the location of the program sites and the placements of students. A demographic and geographic review that analyzes the present locations of programs, program needs, and population served should take place. Program service regions with clearly defined service areas can then be established, using residence areas of the neighborhood schools. While this also involves the issue of available facilities, a mission statement and policies developed by the agency may promote the comprehensive commitment to all pupils and the acceptance of pupils with exceptional needs in a broad variety of settings.

Additional Policy Considerations

Other subjects that need policy and procedure directives may include control of pupil medicine transported between home and school on a vehicle; student suspension; physical intervention and management; authority to use special harnesses, vest, and belts; early closing of school due to inclement weather or other emergencies; authority to operate special equipment; when no adult is home to receive pupils; when and how to involve community emergency medical and/or law enforcement personnel; use of mobility aides; control and management of confidential information; use of bus aides; and other.

Coordination of Calendars and Schedules

Coordination of student attendance calendars at all school sites that provide special education services is necessary to fully utilize transportation services and to minimize the number of required days of transportation service.

In unified districts, multi-track districts, multi-district SELPAs, COEs and/or in transportation cooperatives, standardization of calendars should include the coordination of starting and ending dates of school years, bell schedules (starting and ending times), vacation/intersession breaks, staff development days (School Improvement Program, School Based Coordinated Program, other), minimum day schedules, etc. This coordination should be done so that all significant transportation implications are addressed and transportation resources are effectively utilized.

Length of School Day, Related Services, Extracurricular Events

It should be noted that the use of alternative starting times for all special education students at a site can lead to program compliance concerns. Pupils receiving special education and related services must be provided with an educational program in accordance with their IEP for at least the same length of time as the regular school day for their chronological peer group, unless otherwise stated in a student's IEP. In addition, there may be occasions where the needs of the pupil require receiving therapy or some other related service that cannot be provided during the "established" school day. If provisions for "early" or "late" transportation are made for pupils within the general education program due to extra curricular events, provisions for equal opportunity to these events for pupils with exceptional needs who require special transportation must also be made.

Use of Policy and Resource Information

An overview of all available transportation resources should be provided to all administrators, IEP team leaders/case managers or chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

Guidelines For Use By The Individualized Education Program (IEP) Team

Local Education Agency Rules and Policies

All pupils, including those receiving specialized instruction and services, are subject to the rules and policies governing regular transportation offerings within the local education agency, unless the specific needs of the eligible pupil or the location of the special education program/service dictate that special education transportation is required.

Primary Consideration: Pupil Needs

The specific needs of the pupil must be the primary consideration when an IEP team is determining any transportation needs. These may include, but are not limited to:

1. Medical diagnosis and health needs consideration of whether long bus rides could affect a certain pupil's health (duration, temperature control, need for services, health emergencies); general ability and/or strength to ambulate/wheel; approximate distance from school or the distance needed to walk or wheel oneself to the school; consideration of pupil needs in inclement or very hot weather, other.
2. Physical accessibility of curbs, sidewalks, streets, and public transportation systems.
3. Consideration of a pupil's capacity to arrive at school on time, to avoid getting lost, to avoid dangerous traffic situations, and to avoid other potentially dangerous or exploitative situations on the way to and from school.
4. Behavioral Intervention Plans [Title 5, *CCR 3001(g)*] specified by the pupil's IEP and consideration of how to implement such plans while a pupil is being transported.
5. Mid-day or other transportation needs as required on a pupil's IEP (for example, occupational or physical therapy or mental health services at another site, community based classes, etc.) must also be taken into consideration when the IEP team discusses a pupil's placement and transportation needs.
6. Extended school year services, pursuant to *EC* Section 56345(b)(3), should be another consideration of a pupil's need for transportation if considered necessary to provide a free appropriate public education as specified in a pupil's IEP.

Transportation Staff and IEP Team Meetings

Effective practice requires that procedures are developed for communication with transportation personnel and that transportation staff are present at IEP team meetings when the pupil needs the use of adaptive or assistive equipment, when school bus equipment is required to be modified, when the pupil exhibits severe behavioral difficulties and a behavior intervention plan is to be implemented, when the pupil is medically fragile and requires special assistance, and/or when the pupil has other unique needs.

Transportation Options

Considering the identified needs of the pupil, transportation options may include, but not be limited to: walking, riding the regular school bus, utilizing available public transportation (any out-of-pocket costs to the pupil or parents are reimbursed by the local education agency), riding a special bus from a pick up point, and portal-to-portal special education transportation via a school bus, taxi, reimbursed parent's driving with a parent's voluntary participation, or other mode as determined by the IEP team.

When developing specific IEP goals and objectives related to the pupil's use of public transportation, the IEP team may wish to consider a blend of transportation services as the pupil's needs evolve. Specialized transportation, as a related service, must be written on the pupil's IEP with specificity and should be approved by the transportation administrator. It is recommended that services be described in sufficient enough detail to inform the parties of how, when and from where to where transportation will be provided and, where arrangements for the reimbursement of parents are required, the amount and frequency of reimbursement.

Suspension from the School Bus

Occasionally pupils receiving special education services are suspended from bus transportation (*EC* 48900-48900. 7, Grounds for Suspension). The suspension of a pupil receiving special education services from California transportation can constitute a significant change of placement if the district: 1) has been transporting the student; 2) suspends the student from transportation as a disciplinary measure; and 3) does not provide another mode of transportation (Office of Civil Rights, Letter of Finding Complaint No. 04-89-1236, December 8, 1989).

A significant change in placement requires a meeting of the IEP team to review the pupil's IEP. During the period of any exclusion from bus transportation, pupils must be provided with an alternative form of transportation at no cost to the pupil or parent or guardian in order to be assured of having access to the required special education instruction and services (*EC* 48915.5).

EC 48915.5(c) reads:

If an individual with exceptional needs is excluded from schoolbus 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. (AB 1859, Chapter 492, Statutes of 2002 as amended by AB 685, Chapter 56, Statutes of 2007.)

Summary

The LEA providing special education is required to adopt policies for the programs and services it operates, consistent with agreements with other districts or county offices stated as part of the local plan for special education. These policies describe how special education transportation is coordinated with regular home-to-school transportation and set forth criteria that are consistent with these Guidelines for meeting the transportation needs of pupils receiving special education.

These policies and an overview of all available transportation resources should be provided to all administrators, IEP team leaders/case managers/chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

The specific needs of the pupil must be the primary consideration when an IEP team is determining transportation services. It is often beneficial to have transportation staff present at IEP team meetings. The combination of planning and providing information to IEP teams maximizes appropriate placements and efficient cost-effective transportation systems.

Notice

The guidance in the Special Education Transportation Guidelines is not binding on local education agencies (LEAs) or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, the Guidelines are exemplary and compliance is not mandatory. (*EC* Section 33308.5)

BUS EXPECTATIONS

“Bus Expectations” are also provided at the end of this Section to ensure students have a safe ride to and from school. Since the bus ride is an extension of the school day, appropriate behavior is expected at all times.

TRANSPORTATION CONCERNS

Transportation is a related service that may be provided for on a student’s IEP. Transportation is not given to students simply because they are in Special Education; they must qualify for transportation by meeting one or more of the following criteria:

1. A student must receive transportation if the placement offered by the District is not the home school and is beyond the walking distance that typically developing peers are expected to walk. This includes students placed in a special day class because it is not offered at the home school.
2. A student must receive transportation if their disability puts them at risk to walk to school the same distance a typically developing peer is expected to walk. This could be a student with an eligibility of “emotional disturbance” who would not be safe walking alone, or a moderately or severely cognitively delayed student.
3. A student must receive transportation if their disability is a physical impairment that makes walking to school impossible, such as a wheelchair-bound student.

Students do not receive transportation to their home school unless they meet the criteria above. Some reasons transportation is not provided include:

- Students should not receive transportation because they are young.
- Students do not receive transportation because of challenging care schedules or for convenience.
- Students do not receive transportation because it is a dangerous world and parents wish to protect their child.
- Students do not receive transportation because if left to walk on their own they will be truant.



Notification of Bus Expectations

(Adapted from: San Bernardino City USD
Progressive Discipline Matrix)

Student Name: _____ ID #: _____ Grade: _____

Bus Route: _____ Parent/Guardian Phone # _____

School bus expectations are established to ensure students have a safe ride to and from school. Since the bus ride is an extension of the school day, appropriate behavior is expected at all times.

Be SAFE, Be RESPONSIBLE, and Be RESPECTFUL: Sample bus expectations

- Enter/exit bus in a single file line
- Talk in a quiet voice
- Keep conversations between you and the people closest to you
- Follow instructions of driver and attendant
- Remain in designated seat
- Sit with your body facing the front of the bus
- Buckle seatbelt immediately upon being seated
- Share your seat with other bus riders
- Keep hands and feet to him/herself
- Store personal items under the seat in front of you
- Keep food/drinks properly stored in lunchbox, backpack, etc.
- Put trash in the garbage can upon exiting the bus
- Actively participate in bus drills

Administrative action for student misbehavior may include:

- Parent contact
- Restricted seating
- Removal of school privileges
- Administrator facilitation of student re-entry to bus
- Identification of social/behavior skill deficits
- Assigned to targeted skill development
- Assigned detention: before/after school, recess, lunch
- Suspension from school
- Destruction of property may result in a monetary fine

Note: Cameras may be used on the school bus at any time to record student behavior.

Student's Signature: _____ Date: ____/____/____

Parent's Signature: _____ Date: ____/____/____

Administrator's Signature: _____ Date: ____/____/____

GUIDELINES FOR STUDENTS WITH DISABILITIES PARTICIPATION IN FIELD TRIPS

These guidelines have been reprinted and, in part, adapted from the Riverside County Special Education Local Plan Area, “Field Trips & Community Cased Instruction for Students with Disabilities.”

I. Introduction

The purpose of this document is to assist school personnel when faced with the decision of including or excluding a student with disabilities from participating in a field trip.

Participation in a field trip is a civil rights issue and no one wants to be charged with discrimination by denying participation based on a student’s disability. Any determination to exclude a student with a disability from a field trip should be made on a case-by-case basis and the District has the burden of demonstrating that the student should not participate.

Field trips and community based instruction that are properly planned and implemented can supplement and enrich classroom procedures by providing learning experiences in an environment outside the classroom, stimulate new interests among students, help students related classroom experiences to the reality of the outside world, and bring all the resources of the community within the scope of a student’s learning experience.

The purpose of this document is to assist school personnel when faced with the decision of including or excluding a student with disabilities from participating in a field trip. To deny participation in a field trip based on disability would be a violation of the individual’s civil rights. Any determination to exclude a student with a disability from a field trip should be made on a case-by-case basis and the District has the burden of demonstrating that the student should not participate.

II. Definitions

The following definitions are being provided to assist with understanding the different types of field trips in which a student may participate. The type of field trip will affect the decision- making process regarding participation, on a case-by-case basis.

- A. Co-Curricular Field Trip** – A field trip related to curriculum and participation in the general education curriculum. A co-curricular field trip is academic, not extracurricular. The initial consideration when determining participation is whether the student has access to the field trip related curriculum.
- B. Extra-Curricular Field Trip** – A field trip not tied to specific curriculum and offered to all students. Students with disabilities must be permitted to participate to the maximum extent appropriate to the needs of the student. Districts have an obligation to provide accommodations to permit participation.
- C. Community Based Instruction (CBI)** – This is not a field trip. It is an instructional strategy to target the development of functional skills in natural environments.

III. Student Participation

A student's individualized education program (IEP) team does not determine if the student will participate in field trips, but does determine to what extent the student will participate in general education. The IEP team must focus on the provision of free appropriate public education (FAPE) and, by definition, extracurricular activities are not part of FAPE [34 CRF 104.35(c)]. This includes what support the student will need in the classroom and any extra-curricular activity the IEP team has determined appropriate for the student. Based on the type of field trip, it may be considered an extra-curricular activity.

A. Co-Curricular Field Trip

All students are to be given the opportunity to access the same curriculum and state standards, unless it has been determined that a student with a disability is not able to do so via discussion and consent at an IEP meeting. Each student with a disability is to participate in mainstreaming opportunities to the maximum extent appropriate based on their individual strengths and needs.

The District needs to ensure that the IEP for a student not participating in co-curricular field trips includes information explaining why the student is not able to benefit from participating in the general education curriculum and, therefore, the co-curricular field trips. In addition, the IEP should clarify that a student not participating in general education classes is receiving an adapted or alternate curriculum.

Example: A student in a moderate-severe special day class (SDC) is mainstreamed to a general education class for opening announcements, music, physical education, science, and art. The student receives an adapted, special education English, math, and social studies curriculum not used in the general education classroom. If a field trip is a co-curricular field trip for the general education social studies class, the student does not meet the eligibility requirements for participation in this field trip. However, the student would be eligible to attend a co-curricular science field trip.

* This does not mean all SDC students are ineligible to attend co-curricular general education field trips. Students may be qualified to go on some of the field trips. For example if both the SDC and the general education class are studying the same science curriculum, special education students may participate in a field trip that supports the science curriculum. Parents and the IEP team need to make these informed determinations at the student's IEP meetings.

B. Extra-Curricular Field Trip

A student with a disability must be permitted to participate in extra-curricular field trips to the maximum extent appropriate to the needs of the student. Districts have an obligation to provide accommodations to permit participation.

C. Community Based Instruction (CBI)

CBI is defined as regular and systematic instruction in meaningful, functional, age-appropriate skills in integrated community settings, using naturally occurring materials and situations, designed to help the student to acquire and generalize life-skills that

enhance his or her opportunities for meaningful experiences and relationships (i.e., live, work, plan, and shop) within the general community. Instruction is driven by individual strengths and needs, using consistent teaching strategies, as well as accommodations designed to enhance the student's participation in typical activities. It is designed to target the development of functional skills necessary for adulthood in natural, non-school environments. The skills typically fall into the domains of self-management, home living, vocations, recreation/leisure, and community.

CBI cannot be a stand-alone event – it must be linked as the next level of instruction after classroom instruction has taken place. Instruction must be intensive and explicit so that skills learned in the classroom are generalized to the community. Home settings, shopping centers, convenience stores and/or grocery stores, as well as community resources such as public libraries and post offices are important instructional settings. Students may also learn important 5 skills such as travel training, pedestrian skills, money use and management, leisure skills, and restaurant use.

Student participation in CBI will look different based on the individual needs of each student as indicated in IEP goals and/or age/grade. For example, one student may work from a recipe to make a list of items to be purchased, use a newspaper ad to estimate price of each item, and use a calculator to determine total costs. Another student may only be choosing one of two items or work on basic money exchanges. Elementary programs may emphasize school-based activities and have fewer off campus outings. CBI outings may include shopping to make a purchase, ordering at a restaurant, accessing community resources (i.e., park, bowling alley, or library), and community safety (i.e., stranger danger, how to seek help, etc.). A trip to a restaurant can involve working on skills like waiting in line, moving up in line appropriately, communicating order, proving payment using the dollar over method, and cleaning up after finished eating.

CBI time and the settings typically increases as students get older. There is a greater emphasis on generalization of skills across settings and situation, and on problem-solving, in order to facilitate greater independence. Typical activities can include:

- **Mobility Training:** bus routes, bus passes and costs, safety in the community, observing landmarks, ignoring strangers, communicating with the driver, bus stop locations, time management, securing personal belongings, and street crossing.
- **Money Skills:** purchasing a bus pass, purchasing a meal, securing money and/or a wallet, estimating.
- **Social Skills:** interact with typical peers, manners, use language to obtain desires, wants, and needs.
- **Career Exploration:** identify people at work and jobs being done, discussion of career interests, participate via job shadowing or supported work experience/employment.

CBI differs from traditional field trips in that instruction is cumulative, the emphasis is on acquisition and application of skills in a naturalistic context, and typically the same skills are instructed and assessed from week to week. The following chart (from Capistrano Unified School District) distinguishes differences:

Community Based Instruction	Field Trips
Focus on functional skills instruction	Are a culmination of classroom instruction
Provide students with opportunities to practice and generalize functional skills	Exposure students to community
Has clearly defined instructional goals related to independent living	Has broadly defined instructional objectives
Occurs regularly	Occurs sporadically
Is a curricular strategy designed to teach lifelong skills	Is a curricular method to enhance learning and/or a source of recreation
Is focused on learning over time	Is a one-time event

IV. Reasons for Excluding Student from a School Sponsored Outing

For ANY field trip, the following are non-academic reasons for excluding a student. Use cautiously.

1. **Health and Safety** – If a student is qualified to participate in a field trip, they may be excluded for safety reasons. However, the Office of Civil rights (OCR) will carefully scrutinize these reasons if a complaint is filed. The basis must be supported by facts.

The District must consider whether accommodations, such as a 1:1 aide, would render participation safe.

- a. Districts need to be cautious in regards to excluding a student with a disability from field trips on the basis of a medical condition. A school district may prohibit a student with a disability from going on a field trip if it believes participation presents an unacceptable risk to the student’s health or safety.
 - b. However, the District should be prepared to demonstrate the necessity of the exclusion (e.g., seizures on the day of the trip, crowded facilities, and safety concerns at large).
 - c. In the case of a student with diabetes, it is important for the District to ensure that the student would be accompanied by an individual qualified to administer glucagon as needed.
 - d. What is generally inappropriate in the school is also inappropriate in field trips (e.g., carrying students).
2. **Discipline** – It is permissible to exclude a special education student from a field trip when his or her Behavior Support Plan or behavioral contract includes terms that misbehavior might result in a loss of the privilege.
 3. **Undue Burden** – OCR and the courts are generally not receptive to arguments that students with disabilities should be treated differently because treating them equally will cost too much. Cost may be considered in some situations if it is an undue hardship to provide the accommodation. The “undue hardship” inquiry looks at the cost of the

accommodation in relation to the District's overall budget. The analysis looks at the specific student's needs and the costs involved, in the context of a specific trip, in order to assess whether an undue burden exists.

- 4. Consider Alternatives** – Courts recognize that there are situations in which a student with a moderate to severe disability cannot benefit from attending general education fieldtrips.

A District can provide the opportunity to participate in appropriate field trips that relate to the student's own curriculum. The IEP team needs to explain to parents what the moderate-severe curriculum is and what participation in the class means, including its own co-curricular field trips and/or community based outings.

V. Required Supports

Education Code Section § 45344 allows any school district to employ instructional aides to assist classroom teachers and other certificated personnel in the performance of duties. An instructional aide shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to pupils. An instructional aide need not perform such duties in the physical presence of the teacher but the teacher shall retain responsibility for the instruction and supervision of the pupils in his or her charge. Therefore, an aide can go out on a field trip and/or accompany students for community-based instruction without the teacher and vice versa.

Generally, the Individuals with Disabilities Education Act (IDEA) requires school districts to provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. All necessary aids and services to permit a student with a disability to participate in district-sponsored extracurricular programs and services are at no cost.

The District needs to provide required supports when a student with disabilities will be participating in a field trip that requires such services (including sending aide or nurse support). OCR has determined that "If students with disabilities need related aids or services to participate in the school's program, such services must be provided by the school, not the parent." (See Ventura (CA) Unified School District, 17IDELR854 OCR 1991).

OCR has also ruled a school district cannot require the parent of a student with a disability to accompany the student on a field trip when a similar obligation is not imposed on the parents of nondisabled students (San Saba (TX) Indep. Sch. Dist., 25IDELR 755 OCR 1996).

If parents of general education students are not mandated to participate in the field trip, the parents of special education parents cannot be. Making parental attendance a condition of field trip approval is a denial of FAPE. However, if a family member's participation in a field trip influences the student's ability to control him or herself from having a behavioral outburst, it may be appropriate to require the family member to accompany the student on a field trip.

VI. Recommendations

- Explain to parents at IEP meetings how their child will or will not participate in the general education curriculum.
- Develop an information sheet providing curriculum descriptions related to the child's class that includes descriptions about mainstreaming and the difference in curricula as it relates to general education classes.
- For each general education co-curricular field trip, review SDC students' IEPs to determine whether they are qualified to go.
- Document the purpose of a co-curricular field trip with relevant descriptions of its relationship to the curriculum.
- Accommodate extra-curricular field trips as required by law, keeping such trips analytically distinct from co-curricular field trips.
- Do not use lack of funds as a reason to deny a student's participation in field trips.
- A deliberate decision to deny funding for field trips for students in special education classes, when such funding is made available for regular education students, denies students with disabilities an equal opportunity for participation.
- Provide students with disabilities equal notice about field trips. Failure to provide notice about planned field trips can result in illegal exclusion of student with disabilities and deny the students an equal opportunity to participate.

VII. Resources

The information for this document was pulled from the following resources:

- California Case Law decisions
- California Education Code
- Fagan, Freidman and Fulfrost LLP
- Federal Code of Regulations
- Office of Civil Rights (OCR)
- Ron Wenkart, Orange County Department of Education
- San Ramon Valley Unified School District
- Section 504, the ADA and the Schools, Second Edition by Perry A. Zirkel Ph.D., J.D.
- SmartStart: FAPE in nonacademic services and extracurricular activities

Guidelines for Private School Students With Disabilities Enrolled By Their Parents in Private Schools

Provision of Services

The SELPA Director, and Special Education Administrators in member LEAs as designees, shall ensure that activities to locate, identify, and evaluate children with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities aged three to 22 in public schools within the district. (34 Code of Federal Regulations [CFR] § 300.131; CA Education Code § 56171)

Pursuant to 20 USC § 1412(a)(3) and CA Education Code § 56171, the Butte County Special Education Local Plan Area (SELPA), as appropriate, shall locate, identify, and evaluate all children with disabilities enrolled by their parents/guardians in private schools, including religious schools. After a timely and meaningful consultation with private schools located in the SELPA boundaries, the SELPA and each LEA shall conduct a thorough "child find" process to determine the number of parentally placed children with disabilities attending private schools located in the district. (71 Federal Regulations 156, 34 CFR §300.131)

The Governing Board recognizes its obligations under federal and state law to identify and offer equitable services to children voluntarily enrolled by their parents/guardians in private schools located within the district boundaries. The District shall make an offer of a Free and Appropriate Public Education (FAPE) to resident students with special needs who attend a private school inside or outside of the District/SELPA boundaries.

For qualified students with disabilities who choose to remain at a private school within the SELPA boundaries, each LEA shall develop and implement an Individualized Services Plan (ISP) that describes the equitable services that the district will provide, as agreed to by the district and private school representatives during the consultation process. (34 CFR § 300.138)

A child with a disability parentally placed in a private school has no individual right to receive some or all of the special education and related services that he/she would receive if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR §§ 300.137, 300.138)

The district shall spend a "proportionate share" of federal funds on parentally placed private school children with disabilities (34 CFR § 300.132 and 300.133) based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees. However, the LEA/SELPA's obligation to provide services to such children terminates once the district's proportionate share of federal funds has been expended before the end of the school year or if an identified student's needs do not fall within the types of services agreed to in the consultation process with private school representatives.

Private School Services

I. Consultative Services

- A. Academic and behavioral consultative service shall be provided to the teacher, other school staff, and/or parent(s) of a special needs student.

5. Consultative service shall be provided at home school sites and shall include:

1. Five (5) sessions of no more than sixty (60) minutes each during the traditional school years, within the work hours of the LEA/SELPA provider. Students with an Individualized Service Plan (ISP), which starts between March and April, shall receive two (2) consultation sessions. Students starting in May, shall receive one (1) consultation session for the current school year.
2. No ISPs shall be written in June. Services for those qualified students shall commence in the fall of the next school year.

6. Consultation may include:

1. Suggested strategies, modifications, and accommodations to facilitate learning in the educational environment.
2. Observations, review of work samples, and conferences with the teacher(s), other staff members, and/or parent(s).

II. Professional Development

The SELPA shall make available professional development activities to the staff/parents of the private schools located within District/SELPA boundaries.

The SELPA shall provide notices of scheduled activities to private schools, but will not be responsible for any costs incurred for the attendance of the private school staff.

III. Funding

According to Section 612(a)(10) (see 20 U.S.C. § 1412 (a)(10)-also, 34 C.F.R. § 300.130) the amount set aside to serve students in private schools is required to be equal to proportion of the amount of federal funds made available by the federal government. Services shall terminate once the funds are expended.

Dispute Resolution

According to 34 CFR § 300.137 no private school child with a disability has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school.

34 CFR § 300.140 states that due process hearing requirements apply only to the issues related to evaluations and eligibility.

Parties are encouraged to seek resolution of special education disputes through less adversarial processes available such as the Alternative Dispute Resolution (“ADR”) prior to filing for due process. Options accessed through the ADR process are conducted in a non-adversarial atmosphere to resolve issues related to evaluations and eligibility, 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 the parent of the child in question from participating if the parent is an attorney.

If the LEA or the SELPA is not able to resolve your concerns through informal means, parent may file a state complaint with the California Department of Education or the Office of Administrative Hearings. (Please refer to the *Notification of Procedural Safeguards*).

Section K: Discipline, Behavioral, and Mental Health Supports

- Student Discipline and Related Topics Guide
- Suspension and Expulsion – Students with Disabilities
- Special Education Removals for Disciplinary Purposes
- Manifestation Determinations and Determinations of Placement
- Behavior Supports and Interventions – Students with Disabilities
- Educationally Related Mental Health Services (ERMHS)

STUDENT DISCIPLINE AND RELATED TOPICS GUIDE

The “Student Discipline and Related Topics Guide” 2016-17, was published by the Association of California School Administrators (ACSA) and prepared by the ACSA Student Services & Special Education Council, link here:

https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/181392/Discipline_ACSA_2016-2017.pdf

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- Serious Bodily Injury (Penal Code 243)
- Hazing (Penal Code 245.6)
- Obscene Matter (Penal Code 311(a))
- Procedural Safeguards (USC Title 20 Section 1415)
- Discipline Procedures (CFR Title 34 Section 300.530)

Section 11: Resource Documents Letters, Forms and Other Documents

SUSPENSION AND EXPULSION STUDENTS WITH DISABILITIES

In developing this section, special thanks is given to the Los Angeles County Office of Education, Division of Student Support Services, Child Welfare and Attendance Unit. The specific document used as a reference for this section is listed below.

“Educator’s Guide to California’s Suspension and Expulsion Process” 2016: A summary of laws affecting pupil services practitioners and practical guidelines and sample forms for school and district administrators

Areas specifically pertaining to students with disabilities were highlighted for the purposes of this section and include those outlined below.

- Suspension or Expulsion of Pupils With Exceptional Needs; Free Appropriate Public Education (FAPE); Provision of Transportation
- Procedural Safeguards (in part)
- Suspension and Expulsion Rates
- Early Intervening Services
- Development, Review, and Revision of the IEP
- Prior Written Notice by Public Agency; Content of Notice
- Authority of School Personnel
- Determination of Setting
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- Protections for Children Not Determined Eligible for Special Education and Related Services
- Referral To and Action by Law Enforcement and Judicial Authorities
- Change of Placement Because of Disciplinary Removals

California Education Code Section 48915.5

**Suspension or Expulsion of Pupils With Exceptional Needs;
Free Appropriate Public Education (FAPE);
Provision of Transportation**

48915.5. (a) 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.

(b) 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.

(c) 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.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(Amended by Stats. 2014, Ch. 767, Sec. 1. Effective January 1, 2015.)

Procedural Safeguards (in part)
20 United States Code (USC) Section 1415

(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT

Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of the child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING

(1) AUTHORITY OF SCHOOL PERSONNEL

(A) Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

(B) Authority

School personnel under this subsection may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

(C) Additional authority

If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 1412(a)(1) of this title although it may be provided in an interim alternative educational setting.

(D) Services

A child with a disability who is removed from the child's current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child's disability) or subparagraph (C) shall—

- (i) continue to receive educational services, as provided in section 1412(a)(1) of this title, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
- (ii) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(E) Manifestation determination

(i) **In general** Except as provided in subparagraph (B), 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 local educational agency, the parent, and relevant members of the IEP Team (as determined by the parent and the local educational agency) 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—

(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

(ii) **Manifestation**

If the local educational agency, the parent, and relevant members of the IEP Team determine that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

(F) Determination that behavior was a manifestation

If the local educational agency, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall—

(i) conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the local educational agency had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement described in subparagraph (C) or (G);

(ii) in the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(iii) except as provided in subparagraph (G), return the child to the placement from which the child was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan.

(G) Special circumstances

School personnel may remove a student to an **interim alternative educational setting** for not more than **45 school days** without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—

(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;

(ii) 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 a State or local educational agency; or

(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

(H) Notification

Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

(2) DETERMINATION OF SETTING

The interim alternative educational setting in subparagraphs (C) and (G) of paragraph (1) shall be determined by the IEP Team.

(3) APPEAL

(A) In general

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

(B) Authority of hearing officer

(i) In general

A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).

(ii) Change of placement order

In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—

(I) return a child with a disability to the placement from which the child was removed; or

(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting 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.

(4) PLACEMENT DURING APPEALS

When an appeal under paragraph (3) has been requested by either the parent or the local educational agency—

(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(C), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

(B) the State or local educational agency 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.

(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

(A) In general

A child who has not been determined to be eligible for special education and related services under this subchapter and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this subchapter if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(B) Basis of knowledge

A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

- (i) the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
- (ii) the parent of the child has requested an evaluation of the child pursuant to section 1414(a)(1)(B) of this title; or
- (iii) the teacher of the child, or other personnel of the local educational agency, 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.

(C) Exception

A local educational agency shall not be 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 pursuant to section 1414 of this title or has refused services under this subchapter or the child has been evaluated and it was determined that the child was not a child with a disability under this subchapter.

(D) Conditions that apply if no basis of knowledge

(i) In general

If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

(ii) Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, 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 agency and information provided by the parents, the agency shall provide special education and related services in accordance with this subchapter, except that, pending

the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

(A) Rule of construction

Nothing in this subchapter shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(B) Transmittal of records

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(7) DEFINITIONS In this subsection:

(A) Controlled substance

The term “controlled substance” means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(B) Illegal drug

The term “illegal drug” means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act [21 U.S.C. 801 et seq.] or under any other provision of Federal law.

(C) Weapon

The term “weapon” has the meaning given the term “dangerous weapon” under section 930(g)(2) of title 18.

(D) Serious bodily injury

The term “serious bodily injury” has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18.

(I) RULE OF CONSTRUCTION

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY

(1) In general

A State that receives amounts from a grant under this subchapter may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

- (A) the agency shall provide any notice required by this section to both the individual and the parents;
- (B) all other rights accorded to parents under this subchapter transfer to the child;
- (C) the agency shall notify the individual and the parents of the transfer of rights; and
- (D) all rights accorded to parents under this subchapter transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) Special rule

If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.

Suspension and Expulsion Rates

34 Code of Federal Regulations Section 300.170

(a) *General.* The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities -

- (1) Among LEAs in the State; or
- (2) Compared to the rates for nondisabled children within those agencies.

(b) *Review and revision of policies.* If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.

(Authority: 20 U.S.C. 1412(a)(22))

Early Intervening Services

34 Code of Federal Regulations Section 300.226

(a) *General.* An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to § 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. (See appendix D for examples of how § 300.205(d), regarding local maintenance of effort, and § 300.226(a) affect one another.)

(b) *Activities.* In implementing coordinated, early intervening services under this section, an LEA may carry out activities that include: –

- (1) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- (2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(c) *Construction.* Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.

(d) *Reporting.* Each LEA that develops and maintains coordinated, early intervening services under this section must annually report to the SEA on –

- (1) The number of children served under this section who received early intervening services; and
- (2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two year period.

(e) *Coordination with ESEA.* Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.

(Authority: 20 U.S.C. 1413(f))

Development, Review, and Revision of the IEP
34 Code of Federal Regulations Section 300.324

(a) *Development of IEP* –

(1) *General.* In developing each child's IEP, the IEP Team must consider –

- (i) The strengths of the child;
- (ii) The concerns of the parents for enhancing the education of their child;
- (iii) The results of the initial or most recent evaluation of the child; and
- (iv) The academic, developmental, and functional needs of the child.

(2) *Consideration of special factors.* The IEP Team must –

- (i) In the case of a child whose **behavior impedes the child's learning or that of others**, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
- (ii) 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;
- (iii) 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, 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), that instruction in Braille or the use of Braille is not appropriate for the child;
- (iv) 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, opportunities for direct communications 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; and
- (v) Consider whether the child needs assistive technology devices and services.

(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))

Prior Written Notice by Public Agency; Content of Notice
34 Code of Federal Regulations Section 300.503

(a) *Notice.* Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency –

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) *Content of notice.* The notice required under paragraph (a) of this section must include –

- (1) A description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- (7) A description of other factors that are relevant to the agency's proposal or refusal.

(c) *Notice in understandable language.*

(1) The notice required under paragraph (a) of this section must be –

- (i) Written in language understandable to the general public; and
- (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure –

- (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
- (ii) That the parent understands the content of the notice; and
- (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))

Authority of School Personnel

34 Code of Federal Regulations Section 300.530

(a) *Case-by-case determination.* School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

(b) *General.*

(1) 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 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 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).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

(c) *Additional authority.* For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) *Services.*

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must –

(i) Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as

provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under § 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) *Manifestation determination.*

(1) 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 child's IEP Team (as determined by the parent and the LEA) must 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 –

- (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

(f) *Determination that behavior was a manifestation.* If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must –

(1) Either -

- (i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
- (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) *Special circumstances.* School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child –

- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an 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 an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

(h) *Notification.* On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

(i) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) *Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

(3) *Serious bodily injury* has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

(4) *Weapon* has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(Authority: 20 U.S.C. 1415(k)(1) and (7))

Determination of Setting

34 Code of Federal Regulations Section 300.531

The child's IEP Team determines the **interim alternative educational setting** for services under § 300.530(c), (d)(5), and (g).

(Authority: 20 U.S.C. 1415(k)(2))

Appeal

34 Code of Federal Regulations Section 300.532

(a) *General.* The parent of a child with a disability who disagrees with any decision regarding placement under §§ 300.530 and 300.531, or the manifestation determination under § 300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).

(b) *Authority of hearing officer.*

(1) A hearing officer under § 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.

(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may -

(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of § 300.530 or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

(c) *Expedited due process hearing.*

(1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§ 300.507 and 300.508(a) through (c) and §§ 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section.

(2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in § 300.506 –

(i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

(4) A State may establish different State-imposed procedural rules for expedited due process hearings conducted under this section than it has established for other due process hearings, but, except for the timelines as modified in paragraph (c)(3) of this section, the State must ensure that the requirements in §§ 300.510 through 300.514 are met.

(5) The decisions on expedited due process hearings are appealable consistent with § 300.514.

(Authority: 20 U.S.C. 1415(k)(3) and (4)(B), 1415(f)(1)(A))

Placement During Appeals

34 Code of Federal Regulations Section 300.533

When an appeal under § 300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in § 300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

(Authority: 20 U.S.C. 1415(k)(4)(A))

Protections for Children Not Determined Eligible for Special Education and Related Services
34 Code of Federal Regulations Section 300.534

(a) *General.* A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(b) *Basis of knowledge.* A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred –

- (1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
- (2) The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or
- (3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

(c) *Exception.* A public agency would not be deemed to have knowledge under paragraph (b) of this section if –

- (1) The parent of the child –
 - (i) Has not allowed an evaluation of the child pursuant to §§ 300.300 through 300.311; or
 - (ii) Has refused services under this part; or
- (2) The child has been evaluated in accordance with §§ 300.300 through 300.311 and determined to not be a child with a disability under this part.

(d) *Conditions that apply if no basis of knowledge.*

(1) If a public agency does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph (d)(2) of this section.

(2)

- (i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under § 300.530, the evaluation must be conducted in an expedited manner.
- (ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
- (iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must provide special education and related services in accordance with this

part, including the requirements of §§ 300.530 through 300.536 and section 612(a)(1)(A) of the Act.

(Authority: 20 U.S.C. 1415(k)(5))

Referral To and Action by Law Enforcement and Judicial Authorities
34 Code of Federal Regulations Section 300.535

(a) *Rule of construction.* Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(b) *Transmittal of records.*

(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

(Authority: 20 U.S.C. 1415(k)(6))

Change of Placement Because of Disciplinary Removals
34 Code of Federal Regulations Section 300.536

(a) For purposes of removals of a child with a disability from the child's current educational placement under §§ 300.530 through 300.535, a change of placement occurs if –

(1) The removal is for more than 10 consecutive school days; or

(2) The child has been subjected to a series of removals that constitute a pattern –

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

(b)

(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

(2) This determination is subject to review through due process and judicial proceedings.

(Authority: 20 U.S.C. 1415(k))

BEHAVIOR SUPPORTS AND INTERVENTIONS FOR STUDENTS WITH DISABILITIES

E. Purpose

These special education guidelines have been developed to assist Individualized Education Program (IEP) teams in the development of appropriate behavioral supports for students with disabilities whose behavior impedes learning.

In the case of a student whose behavior impedes his or her learning or that of others, the IEP team shall develop positive behavioral interventions, strategies and supports to address that behavior. The emphasis in all behavioral interventions and supports shall be on collaborative partnerships including general and special educators and families in order to develop appropriate plans and implement them consistently.

F. Behavior Assessment, Instruction, Supports, and Interventions for Students with Disabilities

The structures for addressing student behaviors and creating positive, safe environments for students fall within three levels. Each level includes supports that enable students to access the curriculum and the social environment of the school setting. The levels are:

1. **Universal:** Includes social skills training; positive, proactive discipline; teaching school behavior expectations; active supervision and monitoring; positive reinforcement systems; firm, fair, and corrective discipline; peer supports. There is an emphasis on teamwork and collaboration. Assessment may include data collection resulting in group support systems.
2. **Selected:** Includes all supports at the “Universal” level plus small social skills training; self-management programs; Behavior Intervention Plans (BIPs); parent training and collaboration; adult mentors; and, increased academic support. Assessment may include individualized data collection, observations and interviews, Functional Behavioral Assessment (FBA) resulting in individual BIP with consistent implementation plans within collaborative teams.
3. **Targeted:** Includes all supports at the “Universal” and “Selected” levels plus intensive social skills training; individualized support plans; parent training and collaboration; multi-agency collaboration (wrap-around) services. Assessment includes individualized data collection, observations and interviews, FBA – may result in a BSP.

G. Behavior Intervention Plan (BIP)

A Behavior Intervention Plan (BIP) is a supplementary support. Legally, if the student has behavior impeding learning of the student or his/her peers, strategies, including positive behavioral intervention, strategies and supports must be considered. If a particular support is needed, the IEP must contain a description of that support and all necessary staff

must be informed of their specific responsibility. It includes “proactive action planning to address behavior(s) that are impeding learning.” It includes “positive behavioral interventions, strategies and supports.”

The BIP should focus on understanding ‘why’ the behavior occurred (i.e. ‘the function’ or ‘communicative intent’) then focus on teaching an alternative behavior that meets the student’s need in a more acceptable way. This includes making “instructional and environmental changes, providing reinforcement, reactive strategies and effective communication.” (Diana Browning Wright, Behavior/Discipline Trainings)

A BIP is developed when appropriate classroom behavioral instruction and the implementation of accommodations and modifications, and/or teaching of social and behavioral skills to meet behavioral goals and objectives specified in the student’s IEP have not proven adequate to address the student’s behavior problems. Assessment activities for its development should include communication with all other agencies serving the student and family.

The BIP form is organized to assist the IEP team in analyzing the behavior, developing alternative behaviors, establishing reinforcement strategies, making recommendations, for accommodations, modifications, and supports and identifying communication systems for all team members. It is understood that there would be considerable data collection and review of the data as part of the preparatory activities prior to the IEP meeting.

H. Procedures for Students with Disabilities with Serious Behavior Problems

D. Functional Analysis Assessment (FAA) – Partial Repeal of Hughes Bill

Assembly Bill 86 aligned state law with federal regarding implementation of emergency behavior interventions. Effective July 1, 2013, school districts are no longer required to conduct functional analysis assessments (FAAs).

Section 3052 is repealed. (CA Education Code [EC] § 56523(a).) A number of definitions found in California Code of Regulations § 3001 have been repealed -- subdivisions (d) [“behavioral emergency”], (e) [“behavioral intervention”], (f) [“behavioral intervention case manager”], (g) [“behavior intervention plan”], and (ab) [“serious behavior problems”]. (CA EC § 56523(a))

School districts are no longer obligated to conduct FAAs pursuant to former section 3052(b) – individualized education program (IEP) teams must determine whether a functional behavioral assessment (FBA) should be conducted when a behavioral emergency report is issued for a student who does not have a behavior intervention plan (BIP). (See Ed. Code, § 56523(a), and newly added § 56521.1 (g).)

An IEP team must consider the use of positive behavioral interventions and supports, along with other strategies to address a child’s behavior that impedes the learning of that child or others, in accordance with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code.

- The involvement of a Behavior Intervention Case Manager (BICM) is no longer required by law. (CA EC § 56525.)

CHANGES TO STATE REQUIREMENTS FOR BEHAVIORAL INTERVENTION PLANS

The following is a reprint from California Department of Education webpage:

<http://www.cde.ca.gov/sp/se/ac/bipltr090513.asp>

On July 1, 2013, the Governor signed Assembly Bill 86 (AB 86), the Education Omnibus Trailer Bill, Chapter 48, Statutes of 2013. Among other things, the bill amends California *Education Code (EC)* sections 56520, 56523, and 56525; it adds sections 56521.1 and 56521.2.

According to a Senate Floor analysis, the intent of these changes is to modify "the Behavioral Intervention Plan mandate to align it more closely with federal law and reduce unnecessary costs, while maintaining important protections for students with disabilities."

As a result of the bill's passage, the California Department of Education (CDE) must repeal the regulations found in Title 5, *California Code of Regulations (5 CCR)*, Section 3052 and 5 CCR 3001 subsections (d), (e), (f), (g), and (ab). These regulations addressed positive behavioral interventions, functional analysis assessments, behavioral intervention plans, emergency interventions, prohibited interventions, key definitions, and the related responsibilities of local educational agencies (LEAs) and special education local plan areas.

In adding two new sections to *EC*—56521.1 and 56521.2—AB 86 essentially brings most of 5 CCR 3052(i), the use of behavioral emergency interventions, and 5 CCR 3052(l), the interventions that are prohibited from use, into state statute.

The definitions that are repealed from 5 CCR 3001 subsections (d), (e), (f), (g), and (ab) are "behavioral emergency," "behavioral intervention," "behavioral intervention case manager," "behavioral intervention plan," and "serious behavior problems."

BICMs – like FAAs – are the creations of California special education regulations. Because AB 86 conforms California behavior intervention laws to federal laws, legal requirements of BICM involvement in assessment, formulation of BIPs, or attendance at IEP team meetings have been **eliminated**. Despite these changes, the emergency interventions prohibited by the Hughes Bill (e.g., locked seclusion, immobilization, etc.) are still prohibited. (See EC § 56521.2(a).)

E. Individualized Education Program (IEP) Meeting (Specific to the Use of Mechanical Restraints)

Mechanical restraints may only be utilized in the following situations and under the following conditions:

- If there is a safety concern on the bus regarding the welfare of an individual and the safe operation of the vehicle, the IEP team may determine that a mechanical restraint such as a bus safety vest will be utilized after less restrictive options have been attempted and documented on the IEP.
- If a private physician recommends mechanical restraints, such as soft arm splints, because of a student's severe self-injurious behavior, the school nurse must consult with the private physician. The private physician may be invited to the IEP team meeting and may submit a report for the team's consideration. Doctor's orders for mechanical restraints should include; the specific behavior for which the restraint is to be used, how long the restraint is to be implemented, and range of motion exercises for when the restraint is removed.

When an IEP team recommends the use of mechanical restraint in one of the above situations the IEP must include:

- Less restrictive options attempted.
- Procedures and circumstances for the use of the measure (i.e. under what conditions it will be applied, by whom, criteria for removal of the restraint, who will monitor its use, etc.
- A plan to teach the student appropriate behaviors.
- A schedule for systematic monitoring and fading of the use of the restraint.

F. Behavior Interventions Prohibited in Behavior Intervention Plans

There are interventions that are specifically prohibited and which may not be included in any behavior plan. Any BIP shall not include interventions that:

- Are likely to cause physical pain or trauma to the student;
- Release spray or substances in proximity to the student's face;
- Subject the student to verbal abuse, ridicule and/or humiliation;
- Simultaneously immobilize all four extremities, including the procedure known as "prone containment;"
- Use locked seclusion;
- Leave a student without adequate supervision;
- Deny the student adequate sleep, food, water, shelter, bedding, physical comfort, and/or access to bathroom facilities; and,
- Deprive the student of one or more of his/her senses for a substantial amount of time.

4. Transportation

If a student with District transportation services has a BIP developed by an IEP team, the driver should be informed by the school administrator/designee about the BIP, even if a paraprofessional may have responsibility for addressing the student's behaviors while being transported on the bus. As appropriate, the driver may be provided instruction and/or training for implementation of the designated strategies to address the behavior. The driver shall not be required to be responsible for implementing any areas of the BIP that are inconsistent with the California Highway Patrol requirements for safe operations of the vehicle.

I. Emergency Behavior Interventions

Butte County SELPA approves only those Behavior Emergency Interventions that comport with the language of Education Code § 56121.1 and Education Code § 49005 and § 49006, pursuant to the passage of Assembly Bill 2657, which became effective January, 2019.

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

Emergency interventions shall not substitute for Behavior Intervention Plans and may consist only of those approved by Butte County SELPA.

No emergency intervention shall be employed for longer than is necessary to contain the behavior. If the situation requires prolonged use of an emergency intervention, or the safety of both staff and students cannot be effectively maintained, staff shall seek the assistance of the school site administrator or law enforcement agency as appropriate.

Emergency interventions may not include:

- Locked seclusion;
- Any device, materials or objects to immobilize all four extremities;
- Force that exceeds that which is necessary.

Emergency interventions may include:

- SELPA-approved physical intervention containment strategies by a trained individual;
- Intervention by the police;
- Intervention by Butte County Behavioral Health;
- Physical intervention containment strategies by staff on hand only sufficient to prevent harm to self or others in the absence of other alternatives noted;
- Removal from classroom or school by staff or parent as many be appropriate to protect student, other students, and staff.

Pursuant to Education Code § 49005.8, which applies to general and special education students, an educational provider shall not do any of the following:

- (1) Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.

- (2) Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
- (3) Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.
- (4) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.
- (5) Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.
- (6) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.
 - (b) An educational provider shall keep constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. The observation required pursuant to this subdivision shall not be through indirect means, including through a security camera or a closed-circuit television.
 - (c) An educational provider shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.
 - (d) If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent or care provider shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs.

A Behavioral Emergency Report (BER) shall be completed when an emergency interventions used and shall be maintained in the student's file. The report shall include:

- The name and age of the student;
- The setting and location of the incident;
- The name of the staff or other persons involved;
- A description of the incident and the emergency intervention used;
- Whether there is a current behavior intervention plan for the student;
- Description of any injuries sustained by the student, other students, the staff or others.

When an emergency behavior intervention is used:

1. Notify the parent of the use of the emergency intervention within 24 hours.
2. Within one day, responsible person(s) shall complete the Behavior Emergency Report for Individuals with Disabilities form and give it to the designated responsible school site administrator for review.
3. Following the administrator's review and signature, file one copy of the report in the student's IEP folder. Within 48 hours, an IEP meeting must be scheduled to discuss the behavioral emergency, review ongoing data collected, and determine the need to:

- Create a new Behavior Intervention Plan (BIP);
- Review and revise the current Behavior Intervention Plan (BIP); and/or,
- Conduct a Functional Behavior Assessment (FBA).

J. Individual with Disabilities Education Act (IDEA 2004): Functional Behavior Assessment

School districts are required to conduct functional behavior assessment of problem behaviors, under certain circumstances. Framed by the Individual Disabilities Education Act (IDEA 2004), are several contextual factors which taken together alert school administrators the need to conduct an FBA has been triggered:

1. A student with a disability;
2. Student who is removed for more than 10 days;
3. Student is removed for misconduct that either:
 - Is a manifestation of the student’s disability;
 - Is not a manifestation of the student’s disability; and,
 - Involves weapons, drugs, or serious bodily injury, regardless of outcome of the manifestation determination review.
4. For behavior that interferes with the learning environment.

A FBA report may include the following:

- A description of the nature and severity of the targeted behaviors in objective and measurable terms;
- A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior;
- A description of the hypothesized function of the targeted behavior;
- A description of the rate of alternative behaviors including the antecedent and consequences that maintain the alternative behaviors;
- Recommendations for consideration by the IEP team which may include
 - No BIP required (implement positive classroom supports)
 - A Behavior Intervention Plan
 - Complete a Direct Treatment Protocol (if it is determined the behavior is emotionally driven)

EDUCATIONALLY-RELATED MENTAL HEALTH SERVICES (ERMHS)

Introduction

A Short History and Changes to AB 3632

From 1984 until 2010 the state of California required county mental health (CMH) departments to participate with school districts in the delivery of IEP directed mental health services to special education students. The mandate was originally passed in 1984 by Assembly Bill (AB) 3632, but in the Fall of 2010, the California Governor vetoed a fiscal year 2010-11 appropriation for mental health services mandated by AB 3632 and stated that this mandate is suspended." Governor Jerry Brown's May Revision of the state budget bill proposed to shift responsibility for mental health services, including out-of-home residential services, required under federal law from local mental health and county welfare agencies to school districts. The permanent repeal of the AB 3632 mandate releases County Mental Health Departments from responsibility for providing services to special education students in order to benefit from their Individualized Education Programs (IEPs). This places sole responsibility for managing these students' access to Educationally Related Mental Health Services (ERMHS) with local educational agencies.

Current Education Responsibilities – What is ERMHS?

Beginning July 1, 2012, local educational agencies will be responsible for the assessment and delivery of Educationally Related Mental Health Services, known as ERMHS (term used, by California Department of Education) for students residing within the jurisdictional boundaries. The assessments for ERMHS will be conducted by SELPA or LEA staff or contracted personnel. When an IEP team determines that ERMHS services are necessary for a student to benefit from his or her special education program, SELPA will determine assigned service provider. The Service Delivery models will be educationally-based, according to the provisions set forth in the Individuals with Disabilities Education Improvement Act (IDEIA, 2004). Should an IEP team recommend residential placement in a Nonpublic School/Residential Treatment Center (NPS/RTC), SELPA staff will handle referrals for such placement for students.

Pursuant to the Individuals with Disabilities Education Act (IDEA), local educational agencies develop IEPs for all students eligible for special education services. Based on a student's assessed needs, local educational agencies will provide ERMHS to a student with disabilities, as determined by the IEP Team, as part of the federal mandate to provide a free appropriate public education (FAPE).

ERMHS Defined

Related Services under IDEA are defined in Section 300.34 of the Title 34 Code of Federal Regulations (CFR): 34CFR 300.34(a).

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 these include:

- Speech-language pathology and audiology services
- Interpreting services
- Psychological Services

- Physical and occupational therapy recreation including therapeutic recreation
- Early identification and assessment of disabilities in children
- Medical services for diagnostic or evaluation purposes
- School health services and school nurse services
- Social work services
- Parent counseling and training

Section 300.34(a) and Section 602(26) of the Act states that related services include other supportive services that are required to assist a child with a disability to benefit from special education. According to the federal Office of Special Education Planning (OSEP), this conveys that the list of services in Section 300.34 is not exhaustive and may include developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education

Section 300.34 of Title 34 of the CFR further defines individual related services terms. The following list represents some of the services that may be appropriate when addressing the emotional and behavioral needs of students with disabilities (refer to 34 CFR Section 300.34 for the complete list of individual related services terms):

Counseling Services (34 CFR 300.34(c) (2)):

Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

Parent Counseling and Training (34 CFR 300.34 (c) (8)):

- a. Parent counseling and training means assisting parents in understanding the special needs of their child;
- b. Providing parents with information about child development; and
- c. Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's individualized education program (IEP) or individualized family service plan (IFSP).

Clinical Psychological Services (34 CFR 300.34(c) (10)):

- a. Administering psychological and educational tests, and other assessment procedures;
- b. Interpreting assessment results;
- c. Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- d. Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- e. Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- f. Assisting in developing positive behavioral intervention strategies.

Clinical Social Work Services in Schools (34 CFR 300.34(c) (14))

- a. Preparing a social or developmental history on a child with a disability;
- b. Group and individual counseling with the child and family;
- c. Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school:

- d. Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- e. Assisting in developing positive behavioral intervention strategies.

Residential Placement is not listed as a related service in Section 300.34 of Title 34 of the CFR. However, residential placement is addressed elsewhere in IDEA:

Residential Placement (34 CFR 300.104):

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

*Medication Management**

ERMHS does not include medication management, which was once funded in the AB 3632 program. The California Department of Education (CDE) has advised SELPAs and LEAs that "in general, medical services are required under the IDEA if they are necessary for the purpose of diagnosis or evaluation. However, medical services provided by a licensed physician for other purposes, such as treatment, may not be a related service required by the IDEA." Since the prescription and monitoring of psychiatric medication is a "medical service" provided by a licensed physician but not necessary for diagnosis or evaluation, and is in fact a part of treatment, CDE contends it may not be required under IDEA, citing federal regulation and the "medical exclusion" arising out of case law.

CDE clarifies, however, that services that can be provided in the school setting by a nurse or qualified layperson are not subject to the medical exclusion and advises LEAs that to the extent administration of medication is done by a school nurse or qualified lay person, that service activity may fall under the IDEA. CDE further advises LEAs to consider requests for medication monitoring on a case-by-case basis to determine if they fall under IDEA.

*Adapted from the California Department of Education document dated 9/13/11; Assembly Bill 114: Medication Monitoring

Butte County SELPA Procedures

Educationally-Related Mental Health Services

Approved

12/12/2012

Revised 8-4-16

Revised 7-18-18

History

In 1984, Assembly Bill 3632 statutorily required a partnership between school districts and county mental health agencies to deliver mental health services to students with individualized education programs (IEPs). In 2011, the California Legislature passed Assembly Bill 114, which repealed the state mandate on special education and county mental health agencies and eliminated related references to mental health services in California statute. As a result of this new legislation, school districts are solely responsible for ensuring that students with disabilities receive special education and related services to meet their needs according to the Individuals with Disabilities Education Act (IDEA) of 2004.

Mental health as a related service is identified as mental health services necessary for a student to benefit from their special education program. Within the educational environment these can include assessment of needs for mental health services, crisis intervention within the educational setting, outpatient counseling, day treatment placement, case management, parent consultation, and/or residential placement recommendations. Please note that *medication management* is not included among these services since federal guidelines consider it a medically necessary and not an educationally necessary service. The term, “mental health as a related service”, is currently utilized in place of “AB3632” or “26.5” services”. Mental health a related service and Educationally Related Mental Health Services (ERMHS) can be used interchangeably.

What Is ERMHS?

Educationally-Related Mental Health Services (ERMHS) are mental health services that are provided to students receiving special education services. These services are provided when students have significant socio-emotional or socio-behavioral needs that impede their ability to benefit from their special education services. There must be a direct relationship between the emotional/behavioral characteristics and the lack of benefit from special education services. This may be shown as lack of progress on goals/objectives, declining grades, absences, suspensions, etc. Referral is appropriate when these concerns are determined to be associated with a condition that cannot be described solely as a temporary adjustment problem that can be resolved with less than three months of school counseling. Students eligible for mental health services are not just those identified as Emotionally Disturbed but can be those of any disability category. Educationally Related Mental Health Services may be provided by district personnel as well as by the Butte County SELPA through clinical services in the ED/SDC classroom. Students identified with emotional /behavioral issues which impede their ability to benefit from their Special Education may be referred to the SELPA for ERMHS support. Educationally Related Mental Health Services, once referred and approved, will be documented in the IEP. The services will be regularly monitored for efficacy and due diligence. Adjustments in the level of service provided will be made as appropriate. An IEP will be held and the service will be discontinued when the behavioral goals are met signaling that the services are no longer needed for the student to benefit from special education services.

Target Population

Students must have significant needs identified through assessment in the areas of social-emotional or social-behavioral by a school psychologist or clinician. This requires that the students are currently served under an active IEP. Eligible students for mental health services are not just those identified as Emotionally Disturbed but can be those of any disability category. Students can be anywhere on the continuum of placement and services as long as they meet the criteria for Mental Health referral and assessment, subsequently outlined.

Consult ERMHS Checklist to insure proper procedure

Step 1: ERMHS Referral Process Form

Student:	School:
Age:	Primary Disability:
DOB:	Gen Ed Teacher:
Grade:	Sp Ed Teacher:

<p>Reason for Referral/Concerns:</p> <p>When did these concerns begin?</p>
<p>Please state current IEP goal which addresses these concerns:</p>
<p>Previous or Current Interventions and Strategies (see attached <i>Interventions and Considerations Prior to Referral for ERMHS</i>):</p>
<p>Is there a BIP or DTP?</p> <p><input type="checkbox"/> Yes If yes, how long has it been in place?</p> <p><input type="checkbox"/> No If no, discuss at ERMHS consultation.</p>

Information obtained from record reviews:

Current Attendance:

Current Grades:

Summary of Discipline:

Health Information:

Date of most recent psycho-educational report:

Please share family's understanding of ERMHS process and referral?

Complete the following attached forms:

- Frequency, Duration, Intensity Documentation*
- Social Skills Assessment*

Person Completing Referral

Date

Interventions and Considerations Prior to Referral for SELPA Provided ERMHS

Behavior Interventions

- | | | |
|--|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Social skills group <input type="checkbox"/> School-based counseling <input type="checkbox"/> SEL Curriculum <input type="checkbox"/> Positive reinforcement system <input type="checkbox"/> Behavior Intervention Plan <input type="checkbox"/> Behavior contract <input type="checkbox"/> Increased supervision during recess or unstructured times <input type="checkbox"/> Structured breaks <input type="checkbox"/> Moving position in class <input type="checkbox"/> Check-in / Check-Out <input type="checkbox"/> Behavior tracking form <input type="checkbox"/> Visual schedule <input type="checkbox"/> Non-Verbal cues and signals <input type="checkbox"/> Proximity to student <input type="checkbox"/> Video modeling <input type="checkbox"/> Establish regular teacher-parent communication <input type="checkbox"/> Role-Play social interactions <input type="checkbox"/> Encourage student to write down feelings. <input type="checkbox"/> I-Messages <input type="checkbox"/> Consistent recognition for demonstrating positive behaviors. | <ul style="list-style-type: none"> <input type="checkbox"/> Reward system <input type="checkbox"/> Sensory tools <input type="checkbox"/> Social stories <input type="checkbox"/> Teach Skills: <ul style="list-style-type: none"> <input type="checkbox"/> Conflict Resolution <input type="checkbox"/> Coping <input type="checkbox"/> Relationship <input type="checkbox"/> Social <input type="checkbox"/> Organizational <input type="checkbox"/> Self-management <input type="checkbox"/> Relaxation techniques <input type="checkbox"/> Behavior modification techniques <input type="checkbox"/> Choice <input type="checkbox"/> Use timer <input type="checkbox"/> Give student leadership responsibilities or a job. <input type="checkbox"/> Offer rewards for completing non-preferred tasks. <input type="checkbox"/> Menu of strategies <input type="checkbox"/> Allow student to work in another classroom, library, etc. <input type="checkbox"/> Peer buddies | <ul style="list-style-type: none"> <input type="checkbox"/> Active supervision and monitoring <input type="checkbox"/> Daily report card <input type="checkbox"/> Clear expectations and procedures <input type="checkbox"/> Post, model, and practice classroom expectations <input type="checkbox"/> Reinforce other students who are following classroom expectations. <input type="checkbox"/> Teach routines <input type="checkbox"/> Classroom management support <input type="checkbox"/> Alternate seating <input type="checkbox"/> Individual work space <input type="checkbox"/> Point system and level of access <input type="checkbox"/> Use “wait time” after giving a request to avoid power struggle. <input type="checkbox"/> Provide self-monitoring checklist. <input type="checkbox"/> Other: |
|--|--|---|

Academic Interventions

- | | | |
|--|--|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Modifications to assignments <input type="checkbox"/> Increased academic support <input type="checkbox"/> Self-monitoring and performance feedback <input type="checkbox"/> Paired reading <input type="checkbox"/> Accommodations for work <ul style="list-style-type: none"> <input type="checkbox"/> Presentation <input type="checkbox"/> Response <input type="checkbox"/> Timing <input type="checkbox"/> Scheduling <input type="checkbox"/> Seating <input type="checkbox"/> Offer choices of ways to demonstrate learning. <input type="checkbox"/> Activate prior knowledge | <ul style="list-style-type: none"> <input type="checkbox"/> Provide assignments that match instructional level <input type="checkbox"/> Use creative formats to engage student in learning. <input type="checkbox"/> Use high-interest activities. <input type="checkbox"/> Break assignment into segments. <input type="checkbox"/> Develop work completion contract. <input type="checkbox"/> Reinforce other students who are working. <input type="checkbox"/> Alternate assignments between easy/more difficult. | <ul style="list-style-type: none"> <input type="checkbox"/> Include student’s strengths in assignments. <input type="checkbox"/> Provide different types of assignments/assessments <input type="checkbox"/> Reduce assignment <input type="checkbox"/> Direct instruction <input type="checkbox"/> Graphic organizers <input type="checkbox"/> Differentiate instruction <input type="checkbox"/> Provide notes <input type="checkbox"/> Peer-assisted learning <input type="checkbox"/> Peer tutoring <input type="checkbox"/> Pair with strong peer for support. |
|--|--|---|

Frequency, Duration, Intensity Documentation

Student Name: _____

Date: _____

Target Behavior to Observe (choose one behavior for each form): _____

Schedule	Target Student Tally Frequency	Average Peer Tally Frequency	Notes:
9:00 – 9:30			
9:30 – 10:00			
10:00 – 10:30			
10:30 – 11:00			
11:00 – 11:30			
11:30 – 12:00			
12:00 – 12:30			
1:00 – 1:30			
1:30 – 2:00			
2:00 – 2:30			
2:30- 3:00			
3:00 – 3:40			

Total:			
---------------	--	--	--

Incident Duration and Intensity

Start	Finish	Intensity	Intensity Scale
			<ol style="list-style-type: none"> 1. Mild: Refusal; Name calling; Off task; Making noise, Tantrum 2. Moderate: Yelling; Threats; Destructive to physical environment; Eloping; Mildly injurious physical aggression (hitting, kicking, biting, etc) 3. Severe: Assaultive; Significant self-injurious behaviors; Excessive property damage

SOCIAL SKILLS ASSESSMENT

Student's Name:
Person Completing Form:

Read each item and rate how much of a problem that skill area is for the client on the following scale:

1 = no problem 2 = slight problem 3 = moderate problem 4 = severe problem

Group I: Classroom Survival Skills

- Listening
- Asking for help
- Saying "Thank you"
- Bringing materials to class
- Following simple instructions
- Following multi-step instructions
- Completing assignments
- Contributing to discussions
- Offering to help an adult
- Asking a question
- Ignoring distractions
- Making corrections
- Giving Instructions

- Introducing his or herself
- Introducing other people
- Beginning a conversation
- Maintaining a conversation
- Joining in
- Playing a game
- Asking a favor
- Offering help to a classmate
- Giving a compliment
- Accepting a compliment
- Suggesting an activity
- Sharing
- Apologizing
- Compromising
- Helping others
- Recognizing who are friends

Group II: Friendship-making Skills

Group III: Skill Alternatives to Aggression

- Using self-control
- Asking permission
- Responding to teasing
- Avoiding trouble
- Staying out of fights
- Negotiating

Group IV: Skills for Dealing with Feelings

- Knowing his or her feelings
- Expressing his or her feelings
- Recognizing someone else's feelings
- Showing understanding of someone else's feelings
- Expressing concern for another
- Dealing with his or her anger
- Dealing with someone else's anger
- Expressing affection
- Dealing with fear
- Rewarding him or herself

Group V: Skills for Dealing with Stress

- Making a complaint

- Answering a complaint
- Sportsmanship after the game
- Dealing with embarrassment
- Dealing with being left out
- Standing up for a friend
- Standing up for him or her rights
- Responding to persuasion
- Responding to failure
- Dealing with contradictory messages
- Dealing with an accusation
- Having for a difficult conversation
- Dealing with group pressure

Group VI: Planning Skills

- Deciding of something to do
- Deciding what caused a problem
- Setting a goal
- Deciding on his or her abilities
- Gathering information
- Arranging problems of importance
- Making a decision
- Concentrating on a task
- Convincing Others

**Appendix B: California Department of Education (CDE)
Letter from the Director [reprint]**

Webpage Link: <http://www.cde.ca.gov/sp/se/ac/useofmhfunas.asp>

January 5, 2012

Dear County and District Superintendents, Special Education Local Plan Area Directors, Special Education Administrators at County Offices of Education, Charter School Administrators, Principals, and Nonpublic School Directors:

**ASSEMBLY BILL 114: USE OF MENTAL HEALTH FUNDS
IN THE BUDGET ACT OF 2011–12**

The purpose of this letter is to provide background and guidance regarding the use of funds authorized in the Budget Act of 2011–12 restricting the use of certain funds to “educationally related mental health services.”

General Funds

Pursuant to Assembly Bill (AB) 114, Section 54 (Chapter 43, Statutes of 2011), and provisions 18 and 26 of Item 6110 161-0001 of the Budget Act of 2011–12 funds must be used for:

. . . educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program pursuant to the federal Individuals with Disabilities Education Act (IDEA) of 2004 (20 U.S.C. Sec. 1400 et seq.) and as described in Section 56363 of the *California Education Code (EC)*. The State Superintendent of Public Instruction shall allocate these funds to special education local plan areas in the 2011–12 fiscal year based upon an equal rate per pupil using the methodology specified in Section 56836.07 of the *EC*.

These provisions have been assigned Resource Code 6512, which differentiates these funds from Resource Code 6500, special education general fund programs. These funds shall be exclusively available for these services only for fiscal year (FY) 2011–12 and FY 2012–13.

Federal Funds

Pursuant to AB 114, Section 54 (Chapter 43, Statutes of 2011), provision 9 of Item 6110 161 0890 of the Budget Act of 2011–12, funds shall be available only for the purpose of providing:

. . . educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program pursuant to the federal IDEA of 2004 (20 U.S.C. Sec. 1400 et seq.) and as described in Section 56363 of the *EC*.

These funds were allocated to special education local plan areas (SELPAs) on a one-time basis in the 2011–12 fiscal year using data available from the California Longitudinal Pupil Achievement

and Data System (CALPADS) as of December 1, 2010. If funds are appropriated for the purpose of providing the educationally related mental health services for the 2012–13 fiscal year, they will be allocated based on an equal rate per pupil using a methodology specified in Section 56836.07 of the *EC* and using average daily attendance for the 2011–12 fiscal year.

Definition of Educationally Related Mental Health Services

As noted in the provisions above, educationally related mental health services are described in 30 *EC* Section 56363. Section 56363 defines the term “designated instruction and services” to mean “related services” as that term is defined in Section 1401(26) of Title 20 of the *United States Code* and Section 300.34 of Title 34 of the *Code of Federal Regulations (CFR)*.

Related services under IDEA are defined in Section 300.34 of Title 34 of the *CFR*:

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, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic 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. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. (34 *CFR* 300.34(a))

Section 300.34 of Title 34 of the *CFR* further defines individual related services terms. The following list represents some of the services that may be appropriate when addressing the emotional and behavioral needs of students with disabilities:

- • Counseling services (34 *CFR* 300.34(c)(2)) and California *EC* 56363(b)(9)
- • Parent counseling and training (34 *CFR* 300.34(c)(8)) and California *EC* 56363(b)(11)
- • Psychological services (34 *CFR* 300.34(c)(10)) and California *EC* 56363(b)(10)
- • Social work services in schools (34 *CFR* 300.34(c)(14)) and California *EC* 56363(b)(13)

Refer to 34 *CFR* Section 300.34 for the complete list of individual related services terms. Residential placement is not listed as a related service in Section 300.34 of Title 34 of the *CFR*. However, residential placement is addressed elsewhere in the IDEA:

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child (34 *CFR* 300.104).

In addition, the list of related services in the IDEA is not exhaustive or finite. The individualized education program (IEP) team must decide what related services are necessary to provide a free and appropriate public education (FAPE) to each student with a disability.

To maintain clear and understandable terminology based upon existing statute, the California Department of Education (CDE) will be using the term “related services for students who have emotional and behavioral needs” in place of “educationally-related mental health services.”

Frequently Asked Questions

What limitations are on the use of state and federal funds provided in the Budget Act of 2011–12 for educationally related mental health services?

The legislature was clear that these funds are targeted for related services and that the funds are made available to local educational agencies (LEAs) to provide services formerly provided by the County Mental Health agencies and the Department of Social Services. The funds **cannot** be spent on educational services that have historically been provided by LEAs for students with emotional or behavioral needs.

What are allowable uses of the state and federal funds due to the term “educationally related mental health services”?

These funds may be used for:

- a. The salaries of certificated supervisors and administrators; and clerical, technical, and office staff salaries associated with administering related services for students with emotional or behavioral needs.
- b. The room and board cost of residential placement if it is included in the student’s IEP.
- c. Professional and consulting service (e.g., case management, medical services, day treatment, individual therapy, family therapy, group therapy, group rehabilitation, therapeutic behavior services, assessment, psychological services, and residential placement) costs for students with emotional or behavioral needs.
- d. Rental and/or lease of office space to provide professional and consulting services for students with emotional or behavioral needs.
- e. Transportation costs of student to receive related services from a provider.
- f. Books and supplies related to providing related services.

If you have any questions regarding this subject, please contact Chris Essman, Education Programs Consultant, Special Education Division, by phone at 916-327-3507 or by e-mail at cessman@cde.ca.gov.

Sincerely,

Original signed by Fred Balcom. Hard copy of the signed document is available by contacting the Special Education Division's Director's Office at 916-445-4602.

Fred Balcom, Director
Special Education Division

Last Reviewed: Friday, June 2, 2017

Section L: Surrogate Parents

- Surrogate Parent Requirements
- Recruiting Surrogate Parents
- Conservatorship
- Foster Youth

SURROGATE PARENT REQUIREMENTS

The “Surrogate Parent Requirements” document is based on the laws and requirements regarding the appointment of Surrogate Parents. Included are the documents required for recruitment, training, and monitoring as outlined below.

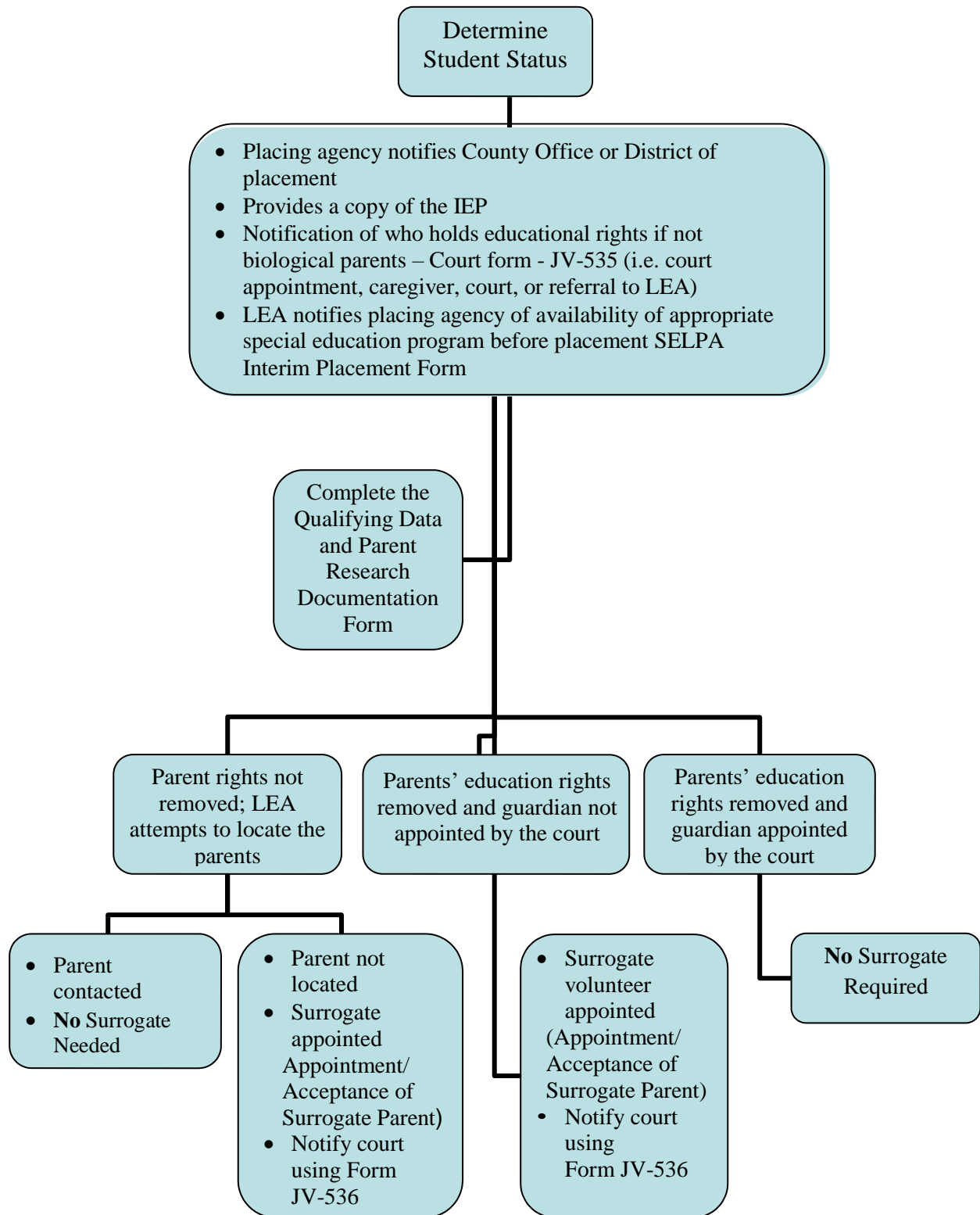
- Surrogate Parent Appointment Flowchart
- Definition
- Appointment of a Surrogate Parent
- Who to Appoint as a Surrogate Parent
- Working with Surrogate Parents
- Appendix 1: Government Code
- Appendix 2: Forms

Surrogate Parent Forms

- JV 535, Notification of Placement of Individual with Exceptional Needs in Licensed Children’s Institute or Foster Family Home
- JV 536, Notification to court regarding the appointment of the Surrogate Parent
- Educational Surrogate Parent Qualifying Data & Parent Search Documentation
- Educational Surrogate Parent Application
- Appointment/Acceptance of Surrogate Parent
- Acknowledgement of Training Completion
- Surrogate Parent Evaluation
- Roles and Responsibilities in the IEP Process Activity
- Brochure for Recruiting Surrogate Parents

This entire document has been replicated and adapted with permission from the Riverside County Special Education Local Plan Area (SELPA).

Surrogate Parent Appointment Flowchart



Definition

A “surrogate parent” is an adult appointed by a local educational agency (LEA) or special education local plan area (SELPA) to represent a pupil (aged birth-21) for the purpose of their individualized education program (IEP) to ensure that the rights of the pupil to a free appropriate public education (FAPE) are protected when the biological parents cannot be found or the courts have removed their educational rights and have not assigned them to another.

Appointment of a Surrogate Parent

A LEA 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:

- (A) No parent (as defined in §300.30) can be identified;
- (B) The public agency, after reasonable efforts, cannot locate a parent;
- (C) The child is a ward of the State under the laws of that State;
- (D) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6))

A child may need an interim surrogate parent when he/she is initially placed in a SELPA in order to meet the requirements for an immediate educational placement while the status of location of the child’s parent is researched.

These children may be living in:

- Foster homes
- Private group homes
- State hospitals or other health facilities
- Correctional facilities
- Residential treatment centers
- With other family members (such as grandparents)

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
- 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 a timely IEP review, establish consent for special education assessment, or both.

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).

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 Form JV-535 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)).

- Forms JV-535 and JV-536 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 Form JV-535.
- If the LEA does not appoint a surrogate parent within 30 days of receipt of the Form JV-535, it must, within the next five court 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.

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.

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; and,
- 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 who qualify as homeless for the purposes of this part because the children are living in circumstances described in above bullet points. (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.

When a Surrogate is Not Needed

1. The parent's educational rights pertaining to the student have not been removed by a court.
2. The parent maintains educational rights and has appointed their own educational representative for their child.
3. A court has appointed a guardian for the student (Court Minute Order or Form JV-535)
4. The student was voluntarily placed in a residential facility.
5. The student is 18 years of age, or older, and he/she does not have a conservator or guardian, regardless of the individual's functioning levels.
6. The student is an emancipated minor.
7. The student is married.

If the child has a legal guardian, then a surrogate parent is not needed. Also if someone (e.g., such as a grandparent) is "acting" as the child's parent at the request of the natural parent, this child does not need a surrogate parent.

Who to Appoint as a Surrogate Parent

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. 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. 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 (*California Government Code Section 7579.5(j)(1)*).

A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the LEA solely because he or she is paid by the LEA to serve as a surrogate parent (*California Government Code Section 7579.5(j)(2)*). When appointing a surrogate parent, the LEA shall, as a first preference, select a relative caretaker or foster parent if any of these individuals exists and is willing and able to serve. If none of these individuals are willing or able to act as a surrogate parent, the LEA shall select the surrogate parent of its choice (*California Government Code Section 7579.5(b)*). If the child is moved from the home of the relative-caretaker or foster parent who has been appointed as a surrogate parent, the LEA shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

California Education Code Section 56028 uses slightly different language. “Parent” includes a biological or adoptive parent of a child, 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, 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, or 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. “Parent” also includes a parent surrogate. Except, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified 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. Also, if a judicial decree or order identifies a specific person or persons 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. “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)*).

It should be noted that a LEA’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 LEA may need to implement a due process hearing to obtain approval for the LEA’s offer of FAPE. In this case, the LEA does not need a surrogate parent.

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.

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.

Working with Surrogate Parents

The district should provide a list of prospective candidates to serve as surrogate parents to the Butte County SELPA. The SELPA will provide training in identification, assessment, IEP development and procedural safeguards to surrogate parents so that they can competently represent the interests of their students. The SELPA will maintain an updated master list of trained surrogate parents for school districts to draw from.

Recruiting Surrogate Parents

The following resources are recommended for locating potential surrogate parent volunteers:

- Local school parent associations
- Community Advisory Committee (CAC) members
- Retired teachers or other retired school employees
- Rotary, Lions, Kiwanis, and other community/service groups
- Big Brothers, Big Sisters, foster grandparents
- American Association of University Women (AAUW)

- University graduate students
- Parents/foster parents of other special education students
- Relatives
- In-ho

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.

It is suggested that the procedures listed below 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.

Expectations of Surrogate Parents

The surrogate parent shall serve as the child's parent for the purpose of the individualized education program (IEP) process 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 (FAPE) of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP including non-emergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The surrogate parent may sign any consent relating to individualized education program purposes (*California Education Code Section 56050*).

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. As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child. 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. The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency (*California Government Code* Section 7579.5 (d-f)).

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 the state education agency, the 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; and/or,
- 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).

Surrogate Parent Rights

Surrogate Parents have the right to:

1. Inspect and have a copy of all of the child's educational records.
2. Request changes with inappropriate or inaccurate information contained in the student's records.
3. Be informed about assessment procedures, tests, and all results.
4. Seek an independent assessment if he/she believes that the school's assessment methods and/or results were inappropriate.
5. Participate fully in the planning of the student's IEP.
6. Receive information about available special education programs.
7. Question the appropriateness of the student's educational program.
8. Decide if a proposed special education placement and program is appropriate for the child, indicating the decision by either signing or refusing to sign the IEP.
9. Talk with people involved with the student's education and receive both regular

progress reports and routine communications.

10. Review and make decisions on any proposed changes in the student's educational program.
11. Request a parent/school conference, new evaluation, or planning meeting when necessary.
12. Have an outside person and the student attend any meeting, if appropriate.
13. Be notified in writing when the school proposes any of the following:
 - Assessment of the student;
 - Changing the student's placement;
 - Changing the student's IEP; and,
 - Calling an educational planning meeting,
14. Receive information from the school about free or low cost legal services in the SELPA that might be needed for legal guidance in performance of surrogate parent duties.
15. Initiate due process proceedings if needed.
16. Be informed if any due process proceedings have been initiated.
17. Receive information about all other state and local agencies that provide services to special education students.
18. The surrogate parent and the LEA 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 (*California Government Code Section 7579.5(l)*).

Monitoring of Surrogate Parents

The local educational agency shall terminate the appointment of a surrogate parent if the person is not properly performing the duties of a surrogate parent or 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)*). 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. The surrogate parent may represent the child until:

- Child is no longer in need of special education;
- 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; or,

- Right of the parent or guardian to make educational decisions for the minor is fully restored (*California Government Code Section 7579.5(k)*).

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. 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. 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. A student with a disability who is over the age of 10 and who has been removed from home pursuant to Section 300, 601, or 602 of the *Welfare and Institutions Code*, shall be included in the team if a surrogate parent has been appointed to represent his or her interests. This does not apply if a qualified medical or mental health professional that is treating the individual provides the district, special education local plan area, or county office with a written opinion that participation on the team would be harmful to the individual (*AB 2015*).

Since a surrogate appointment is contingent on a child's eligibility for special education services, the surrogate parent's appointment lapses when a 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.

Appendix 1: Government Code

7579.5. (a) In accordance with Section 1415(b)(2)(B) of Title 20 of the United States Code, a local educational agency shall make 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 individualized education program, (B) the court specifically has 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 Welfare and Institutions Code or Section 56055 of the 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, as a first preference, shall 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 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 individualized education program, 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 individualized education program 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 individualized education program team meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to individualized education program 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 the 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 in Section 300.519(d) of Title 34 of the Code of Federal Regulations, shall 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 noneducational 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.

Section M: Resolution Strategies

- Resolving Disagreements (Purpose)
- Uniform Complaint Procedure
- Alternative Dispute Resolution (ADR)
- California Department of Education Complaint Process
- Office of Administrative Hearings (OAH) Due Process
- Office of Civil Rights (OCR) Complaint Process
- Parents' Rights and Procedural Safeguards

RESOLVING DISAGREEMENTS

PURPOSE

It is the commitment of Butte County Special Education Local Plan Area (SELPA) to address concerns and/or disagreements that might arise between parents and the Local Educational Agency (LEA) at the earliest level possible. It is critical to promote understanding, open communication, and satisfying solutions to conflict that support and strengthen relationships. Several categories of disagreement could involve issues related to adherence to compliance, assessments, content of the individualized education program (IEP), or special education programs and/or services.

If these disagreements cannot be resolved at the school site level, school staff must contact the LEA Special Education Administrator immediately. The LEA Administrator will work with the school site principal or designee in reviewing the case and work collaboratively with all parties involved.

There are several methods for investigating and resolving matters for overall concerns and those specific to Special Education. These include:

- Uniform Complaint Procedure
- Alternative Dispute Resolution (ADR)
- California Department of Education (CDE) complaint process procedures
- Office of Administrative Hearings due process procedures
- Office of Civil Rights (OCR) complaint procedure

Also provided in this section are procedures if a parent refuses to consent to the Individualized Education Program (IEP) and a reference to the CDE “Parents’ Rights and Procedural Safeguards.”

A. UNIFORM COMPLAINT PROCEDURE

The uniformed complaint procedure is a District process used to resolve complaints without involving the State. The District’s procedure for filing, investigating, and resolving complaints is required by the California Education Code to cover the following programs:

1. Adult Basic Education
2. Federal Aid Programs
3. Migrant Education
4. Vocational Education
5. Child Care and Development
6. Child Nutrition
7. Special Education

Any other program benefiting from State or Federal funds in which discrimination occurs based on ethnicity, religion, age, gender (including sexual harassment), sexual orientation, color, physical or mental disability, medical condition, or political belief or affiliation.

These procedures are provided annually to staff, student, parents, and school community groups, through each LEA's *Parent Student Handbook* and annual distribution of the LEA's Uniform Complaint Procedures.

B ALTERNATIVE DISPUTE RESOLUTION (ADR)

Alternative Dispute Resolution (ADR) is an informal method of settling disagreements. ADR uses specific techniques to promote understanding, open communication, and arrive at satisfying solutions to conflict that support and strengthen relationships. ADR is designed to meet the interests of all parties involved which results in a crafted, mutually agreeable outcome, rather than having a decision made by a third party such as a hearing officer or judge.

The Butte County 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. ADR provides an opportunity for individuals to resolve disagreements in a safe, efficient way. ADR 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.

ADR 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 the 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.

Please, see our SELPA ADR brochure for more information at www.buttecountyselpa.org

ADR Services Include:

- ❖ Trainings
- ❖ Resolution Sessions
- ❖ Pre-filing Meetings
- ❖ Facilitated IEP Meetings
- ❖ Coaching

Source: Reprinted, in part, with permission from: Purchin Consulting Alternative Dispute Resolution Services
4180 Keystone Avenue Culver City, CA 90232 (310) 202-1155 www.purchinconsulting.com

C. CALIFORNIA DEPARTMENT OF EDUCATION

State Complaint Procedures

Parents may file a state compliance complaint when they believe that a school district has violated federal or state special education laws or regulations. A 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 they file a state compliance complaint with the CDE. (34 *CFR* 300.151–153; 5 *CCR* 4600)

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, consult your LEA's uniform complaint procedures. To obtain more information about dispute resolution, including how to file a complaint, contact the CDE, Special Education Division, Procedural Safeguards Referral Service, by telephone at 800-926-0648; by fax at 916-327-3704; or by visiting the CDE's special education webpage.

D. OFFICE OF CIVIL RIGHTS (OCR)

The Office for Civil Rights enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. Discrimination on the basis of race, color, and national origin is prohibited by [Title VI](#) of the Civil Rights Act of 1964; sex discrimination is prohibited by Title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973; and age discrimination is prohibited by the Age Discrimination Act of 1975. These civil rights laws enforced by OCR extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive U.S. Department of Education funds.

Source: U.S. Department of Education webpage link:

<https://www2.ed.gov/about/offices/list/ocr/aboutocr.html>

A complaint of discrimination can be filed by anyone who believes that an education institution that receives Federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group.

E. PROCEDURES IF A PARENT REQUESTS TO REVOKE OR OTHERWISE REFUSES TO CONSENT TO THE IEP

Federal and State laws require that school districts establish, maintain, and implement procedural safeguards identified in the law for the resolution of disagreements related to a student's IEP.

At the conclusion of an IEP meeting, if the parent refuses to consent to the IEP, the administrator/designee should clarify with the parent the areas of agreement and disagreement and when appropriate attempt to work out the disagreement(s). If it is believed that an agreement can be reached, decide what steps will be taken to reach an agreement such as:

- Having additional persons with special expertise join the team.
- Taking time to review the individual options.
- Providing one another with written information to support the different perspectives.
- Having the parent visit the class or program.

If an agreement cannot be reached, the administrator/designee must review with the parent his/her due process rights. In addition, the administrator/designee should then do the following:

1. Indicate in the IEP that he/she consents for services to be implemented during the period of time that the dispute resolution process is taking place.

Note: *Unless specified the student will continue to receive the services, placement and other provisions of the last agreed upon IEP.*

2. Advise parents of their due process rights and provide *Parents' Rights and Procedural Safeguards*.
3. Provide the complaint notice form on request.
4. Inform the parent that the written complaint notice must be submitted to the student's school of attendance, with copies sent by mail or facsimile to the Due Process Department and the California Special Education Hearing office.
5. Advise the parent that they will receive a written response to their complaint within ten (10) business days of receipt of the complaint and a resolution session will be scheduled within fifteen (15) business days.

F. PARENTS' RIGHTS AND PROCEDURAL SAFEGUARDS

The Butte County SELPA has adopted the California Department of Education's *Notice of Procedural Safeguards*, which were revised as of October, 2016 and are available on the CDE webpage in English and Spanish.

Reprinted below is the Notice reprinted in its entirety:

<http://www.cde.ca.gov/sp/se/qa/pseng.asp>.

Special Education Rights of Parents and Children
Under the Individuals with Disabilities Education Act, Part B, and the
California *Education Code*

Notice of Procedural Safeguards

Revised October 2016
CDE, T07-037, English
[Page 385 of 14]

Note: The term school district is used throughout this document to describe any public education agency responsible for providing your child's special education program. The term assessment is used to mean evaluation or testing. Federal and state laws are cited throughout this notice using English abbreviations, which are explained in a glossary on the last page of this notification.

What is the Notice of Procedural Safeguards?

This information provides you as parents, legal guardians, and surrogate parents of children with disabilities from three (3) years of age through age twenty-one (21) and students who have reached age eighteen (18), the age of majority, with an overview of your educational rights or procedural safeguards.

The Notice of Procedural Safeguards is required under the Individuals with Disabilities Education Act (in English, referred to as IDEA) and must be provided to you:

- When you ask for a copy
- The first time your child is referred for a special education assessment
- Each time you are given an assessment plan to evaluate your child
- Upon receipt of the first state or due process complaint in a school year, and
- When the decision is made to make a removal that constitutes a change of placement

(20 USC 1415[d]; 34 CFR 300.504; EC 56301[d] [2], EC 56321, and 56341.1[g] [1])

What is the Individuals with Disabilities Education Act (IDEA)?

IDEA is a federal law that requires school districts to provide a “free appropriate public education” (in English, referred to as FAPE) to eligible children with disabilities. A free appropriate public education means that special education and related services are to be provided as described in an individualized education program (in English, known as IEP) and under public supervision to your child at no cost to you.

May I participate in decisions about my child's education?

You must be given opportunities to participate in any decision-making meeting regarding your child's special education program. You have the right to participate in IEP team meetings about the identification (eligibility), assessment, or educational placement of your child and other matters relating to your child's FAPE. (20 USC 1414[d] [1]B-[d][1][D]; 34 CFR 300.321; EC 56341[b], 56343[c])

The parent or guardian, or the local educational agency (LEA), has the right to participate in the development of the IEP and to initiate their intent to electronically audiotape the proceedings of the IEP team meetings. At least 24 hours prior to the meeting, the parent or guardian shall notify the members of the IEP team of their intent to record a meeting. If the parent or guardian does not consent to the LEA audiotape recording an IEP meeting, the meeting shall not be recorded on an audiotape recorder.

Your rights include information about the availability of FAPE, including all program options, and all available alternative programs, both public and nonpublic. (20 USC 1401[3], 1412[a][3]; 34 CFR 300.111; EC 56301, 56341.1[g][1], and 56506)

Where can I get more help?

When you have a concern about your child's education, it is important that you contact your child's teacher or administrator to talk about your child and any problems you see. Staff in your school district or special education local plan area (SELPA) may answer questions about your child's education, your rights, and procedural safeguards. Also, when you have a concern, this informal conversation often solves the problem and helps to maintain open communication.

You may also want to contact one of the California parent organizations (Family Empowerment Centers and Parent Training Institutes), which were developed to increase collaboration between parents and educators to improve the educational system. Contact information for these organizations is found on the CDE special education California Parent Organizations Web page at

<http://www.cde.ca.gov/sp/se/qa/caprntorg.asp>

Additional resources are listed at the end of this document to help you understand the procedural safeguards.

What if my child is deaf, hard of hearing, blind, visually impaired, or deaf-blind?

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. Such programs are offered to students aged 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 (CDE) Web

site at <http://www.cde.ca.gov/sp/ss/> or ask for more information from the members of your child's IEP team.

Notice, Consent, Assessment, Surrogate Parent Appointment, and Access to Records

Prior Written Notice

When is a notice needed?

This notice must be given when the school district proposes or refuses to initiate a change in the identification, assessment, or educational placement of your child with special needs or the provision of a free appropriate public education. (20 USC 1415[b][3] and (4), 1415[c][1], 1414[b][1]; 34 CFR 300.503; EC 56329 and 56506[a])

The school district must inform you about proposed evaluations of your child in a written notice or an assessment plan within fifteen (15) days of your written request for evaluation. The notice must be understandable and in your native language or other mode of communication, unless it is clearly not feasible to do so. (34 CFR 300.304; EC 56321)

What will the notice tell me?

The Prior Written Notice must include the following:

- A description of the actions proposed or refused by the school district
- An explanation of why the action was proposed or refused
- A description of each assessment procedure, record, or report the agency used as a basis for the action proposed or refused
- A statement that parents of a child with a disability have protection under the procedural safeguards
- Sources for parents to contact to obtain assistance in understanding the provisions of this part
- A description of other options that the IEP team considered and the reasons those options were rejected; and
- A description of any other factors relevant to the action proposed or refused. (20 USC 1415[b][3] and [4], 1415[c][1], 1414[b][1]; 34 CFR 300.503)

Parental Consent

When is my approval required for assessment?

You have the right to refer your child for special education services. You must give informed, written consent before your child's first special education assessment can proceed. The parent has at least fifteen (15) days from the receipt of the proposed assessment plan to arrive at a decision. The assessment may begin immediately upon receipt of the consent and must be completed and an IEP developed within sixty (60) days of your consent.

When is my approval required for services?

You must give informed, written consent before your school district can provide your child with special education and related services.

What are the procedures when a parent does not provide consent?

If you do not provide consent for an initial assessment or fail to respond to a request to provide the consent, the school district may pursue the initial assessment by utilizing due process procedures.

If you refuse to consent to the initiation of services, the school district must not provide special education and related services and shall not seek to provide services through due process procedures.

If you consent in writing to the special education and related services for your child but do not consent to all of the components of the IEP, those components of the program to which you have consented must be implemented without delay.

If the school district determines that the proposed special education program component to which you do not consent is necessary to provide a free appropriate public education to your child, a due process hearing must be initiated. If a due process hearing is held, the hearing decision shall be final and binding.

In the case of reevaluations, the school district must document reasonable measures to obtain your consent. If you fail to respond, the school district may proceed with the reevaluation without your consent. (20 USC 1414[a][1][D] and 1414[c]; 34 CFR 300.300; EC 56506[e], 56321[c] and [d], and 56346).

When may I revoke 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 public agency:

May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 CFR Section 300.503 before ceasing such services
May not use the procedures in subpart E of Part 300 34 CFR (including the mediation procedures under 34 CFR Section 300.506 or the due process procedures under 34 CFR Sections 300.507 through 300.516) 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 a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services.

Is not required to convene an IEP team meeting or develop an IEP under 34 *CFR* Sections 300.320 and 300.324 for the child for further provision of special education and related services

Please note, in accordance with 34 *CFR* Section 300.9 (c)(3), that if the parents revoke consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency 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.

Surrogate Parent Appointment

What if a parent cannot be identified or located?

School districts must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the school district cannot discover the whereabouts of a parent.

A surrogate parent may also be appointed if the child is an unaccompanied homeless youth, an adjudicated dependent or ward of the court under the state Welfare and Institution Code, and is referred to special education or already has an IEP. (20 *USC* 1415[b][2] ; 34 *CFR* 300.519; *EC* 56050; *GC* 7579.5 and 7579.6)

Nondiscriminatory Assessment

How is my child assessed for special education services?

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory.

Assessment materials must be provided and the test administered in your child's native language or mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

No single procedure can be the sole criterion for determining eligibility and developing FAPE for your child. (20 *USC* 1414[b][1]–[3], 1412[a][6][B]; 34 *CFR* 300.304; *EC* 56001[j] and 56320)

Independent Educational Assessments

May my child be tested independently at the district's expense?

If you disagree with the results of the assessment conducted by the school district, you have the right to ask for and obtain an independent educational assessment for your child from a person qualified to conduct the assessment at public expense.

The parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

The school district must respond to your request for an independent educational assessment and provide you information about where to obtain an independent educational assessment.

If the school district believes that the district's assessment is appropriate and disagrees that an independent assessment is necessary, the school district must request a due process hearing to prove that its assessment was appropriate. If the district prevails, you still have the right to an independent assessment but not at public expense. The IEP team must consider independent assessments.

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom.

If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe the proposed new setting. (20 USC 1415[b][1] and [d][2][A]; 34 CFR 300.502; EC 56329[b] and [c])

Access to Educational Records

May I examine my child's educational records?

You have a right to inspect and review all of your child's education records without unnecessary delay, including prior to a meeting about your child's IEP or before a due process hearing. The school district must provide you access to records and copies, if requested, within five (5) **business** days after the request has been made orally or in writing. (EC 49060, 56043[n], 56501[b][3], and 56504)

How Disputes Are Resolved

Due Process Hearing

When is a due process hearing available?

You have the right to request an impartial due process hearing regarding the identification, assessment, and educational placement of your child or the provision of FAPE. The request for a due process hearing must be filed within two years from the date you knew or should have known about the alleged action that forms the basis of the due process complaint. (20 USC 1415[b][6]; 34 CFR 300.507; EC 56501 and 56505[1])

Mediation and Alternative Dispute Resolution

May I request mediation or an alternative way to resolve the dispute?

A request for mediation may be made either before or after a request for a due process hearing is made.

You may ask the school district to resolve disputes through mediation or alternative dispute resolution (ADR), which is less adversarial than a due process hearing. The ADR and mediation are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing.

What is a pre-hearing mediation conference?

You may seek resolution through mediation prior to filing a request for a due process hearing. The conference is an informal proceeding conducted in a non-adversarial manner to resolve issues relating to the identification, assessment, or educational placement of a child or to a FAPE.

At the prehearing mediation conference, the parent or the school district may be accompanied and advised by non-attorney representatives and may consult with an attorney prior to or following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting a due process hearing.

All requests for a prehearing mediation conference shall be filed with the Superintendent. The party initiating a prehearing mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

The prehearing mediation conference shall be scheduled within fifteen (15) days of receipt by the Superintendent of the request for mediation and shall be completed within thirty (30) days after receipt of the request for mediation unless both parties agree to extend the time. If a resolution is reached, the parties shall execute a legally binding written agreement that sets forth the resolution. All discussions during the mediation process shall be confidential. All prehearing mediation conferences shall be scheduled in a timely manner and held at a time and place reasonably convenient to the parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a due process hearing. (*EC 56500.3 and 56503*)

Due Process Rights

What are my due process rights?

You have a right to:

1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings (20 *USC* 1415[f][1][A], 1415[f][3][A]-[D]; 34 *CFR* 300.511; *EC* 56501[b][4])
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (*EC* 56505 [e][1])
3. Present evidence, written arguments, and oral arguments (*EC* 56505[e][2])
4. Confront, cross-examine, and require witnesses to be present
5. (*EC* 56505[e][3])
6. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (*EC* 56505[e][4])
7. Have your child present at the hearing (*EC* 56501[c][1])
8. Have the hearing be open or closed to the public (*EC* 56501[c][2])
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 within five (5) business days before a hearing (*EC* 56505[e][7] and 56043[v])
10. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (*EC* 56505[e][6])
11. Have an interpreter provided (*CCR* 3082[d])
12. Request an extension of the hearing timeline (*EC* 56505[f][3])
13. Have a mediation conference at any point during the due process hearing (*EC* 56501[b][2]), and
14. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (*EC* 56507[a]). (20 *USC* 1415[e]; 34 *CFR* 300.506, 300.508, 300.512 and 300.515)

Filing a Written Due Process Complaint

How do I request a due process hearing?

You need to file a written request for a due process hearing. You or your representative needs to submit the following information in your request:

- ✓ Name of the child
- ✓ Address of the residence of the child
- ✓ Name of the school the child is attending
- ✓ In the case of a homeless child, available contact information for the child and the name of the school the child is attending, and
- ✓ A description of the nature of the problem, including facts relating to the problem(s) and a proposed resolution of the problem(s)

Federal and state laws require that either party filing for a due process hearing must provide a copy of the written request to the other party. (20 USC 1415[b][7], 1415[c][2]; 34 CFR 300.508; EC 56502[c][1])

Prior to filing for a due process hearing, the school district shall be provided the opportunity to resolve the matter by convening a resolution session, which is a meeting between the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request. (20 USC 1415[f][1][B]; 34 CFR 300.510)

What does a resolution session include?

Resolution sessions shall be convened within fifteen (15) days of receiving notice of the parents' due process hearing request. The sessions shall include a representative of the school district who has decision-making authority and not include an attorney of the school district unless the parent is accompanied by an attorney. The parent of the child may discuss the due process hearing issue and the facts that form the basis of the due process hearing request.

The resolution session is not required if the parent and the school district agree in writing to waive the meeting. If the school district has not resolved the due process hearing issue within thirty (30) days, the due process hearing may occur. If a resolution is reached, the parties shall execute a legally binding agreement. (20 USC 1415[f][1][B]; 34 CFR 300.510)

Does my child's placement change during the proceedings?

The child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school district agree on another arrangement. If you are applying for initial admission of your child to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. (20 USC 1415[j]; 34 CFR 300.518; EC 56505[d])

May the decision be appealed?

The hearing decision is final and binding on both parties. Either party may appeal the hearing decision by filing a civil action in state or federal court within 90 days of the final decision. (20 USC 1415[i][2] and [3][A], 1415[l]; 34 CFR 300.516; EC 56505[h] and [k], EC 56043[w])

Who pays for my attorneys' fees?

In any action or proceeding regarding the due process hearing, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you as parent of a child with a disability if you are the prevailing party in the hearing. Reasonable attorneys' fees may also be made following the conclusion of the administrative hearing, with the agreement of the parties. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517; EC 56507[b])

Fees may be reduced if any of the following conditions prevail:

- ✓ The court finds that you unreasonably delayed the final resolution of the controversy
- ✓ The attorneys' hourly fees exceed the prevailing rate in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience
- ✓ The time spent and legal services provided were excessive, or
- ✓ Your attorney did not provide to the school district the appropriate information in the due process request notice.

Attorneys' fees will not be reduced, however, if the court finds that the State or the school district unreasonably delayed the final resolution of the action or proceeding or that there was a violation of this section of law. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517)

Attorneys' fees relating to any meeting of the IEP team may not be awarded unless an IEP team meeting is convened as a result of a due process hearing proceeding or judicial action. Attorneys' fees may also be denied if you reject a reasonable settlement offer made by the district/public agency ten (10) days before the hearing begins and the hearing decision is not more favorable than the offer of settlement. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517)

To obtain more information or to file for mediation or a due process hearing, contact:

Office of Administrative Hearings
Attention: Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
(916) 263-0880
FAX (916) 263-0890

School Discipline and Placement Procedures for Students with Disabilities

School Discipline and Alternative Interim Educational Settings

When can a student be suspended or expelled?

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates a code of student conduct from his or her setting to:

- ✓ An appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) consecutive school days, and
- ✓ Additional removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct

What occurs after a removal of more than ten (10) days?

After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency must provide services to enable the child to continue to participate in the general education curriculum and progress toward meeting the goals set out in the child's IEP. Also, a child will receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not recur.

If a child exceeds ten (10) days in such a placement, an IEP team meeting must be held to determine whether the child's misconduct is caused by the disability. This IEP team meeting must take place immediately, if possible, or within ten (10) days of the school district's decision to take this type of disciplinary action.

As a parent you will be invited to participate as a member of this IEP team. The school district may be required to develop an assessment plan to address the misconduct or, if your child has a behavior intervention plan, review and modify the plan as necessary.

What happens if the IEP team determines that the misconduct is not caused by the disability?

If the IEP team concludes that the misconduct was not a manifestation of the child's disability, the school district may take disciplinary action, such as expulsion, in the same manner as it would for a child without a disability. (20 USC 1415[k][1] and [7]; 34 CFR 300.530)

If you disagree with the IEP team's decision, you may request an expedited due process hearing, which must occur within twenty (20) school days of the date on which you requested the hearing. (20 USC 1415[k][2]; 34 CFR 300.531[c])

Regardless of the setting the school district must continue to provide FAPE for your child. Alternative educational settings must allow the child to continue to participate in the general curriculum and ensure continuation of services and modifications detailed in the IEP. (34 CFR 300.530; EC 48915.5[b])

Children Attending Private School

May students who are parentally placed in private schools participate in publicly funded special education programs?

Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. The school district must consult with private schools and with parents to determine the services that will be offered to private school students. Although school districts have a clear responsibility to offer FAPE to students with disabilities, those children, when placed by their parent in private schools, do not have the right to receive some or all of the special education and related services necessary to provide FAPE. (20 USC 1415[a][10][A]; 34 CFR 300.137 and 300.138; EC 56173)

If a parent of an individual with exceptional needs who previously received special education and related services under the authority of the school district enrolls the child in a private elementary school or secondary school without the consent of or referral by the local educational agency, the school district is not required to provide special education if the district has made FAPE available. A court or a due process hearing officer may require the school district to reimburse the parent or guardian for the cost of special education and the private school only if the court or due process hearing officer finds that the school district had not made FAPE available to the child in a timely manner prior to that enrollment in the private elementary school or secondary school and that the private placement is appropriate. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56175)

When may reimbursement be reduced or denied?

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon notice from the school district before removing your child from public school. You may also be denied reimbursement if you did not inform the school district that you were rejecting the special education placement proposed by the school district, including stating your concerns and intent to enroll your child in a private school at public expense.

Your notice to the school district must be given either:

- ✓ At the most recent IEP team meeting you attended before removing your child from the public school, or
- ✓ In writing to the school district at least ten (10) business days (including holidays) before removing your child from the public school. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56176)

When may reimbursement not be reduced or denied?

A court or hearing officer must not reduce or deny reimbursement to you if you failed to provide written notice to the school district for any of the following reasons:

- ✓ The school prevented you from providing notice
- ✓ You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district

- ✓ Providing notice would likely have resulted in physical harm to your child
- ✓ Illiteracy and inability to write in English prevented you from providing notice, or
- ✓ Providing notice would likely have resulted in serious emotional harm to your child (20 USC 1412[a] [10] [C]; 34 CFR 300.148; EC 56177)

State Complaint Procedures

When may I file a state compliance complaint?

You may file a state compliance complaint when you believe that a school district has violated federal or state special education laws or regulations. Your 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, you must forward a copy of the complaint to the school district at the same time you file a state compliance complaint with the CDE. (34 CFR 300.151–153; 5 CCR 4600)

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, consult your district’s uniform complaint procedures.

To obtain more information about dispute resolution, including how to file a complaint, contact the CDE, Special Education Division, Procedural Safeguards Referral Service, by telephone at (800) 926-0648; by fax at 916-327-3704; or by visiting the CDE Web site at:

<http://www.cde.ca.gov/sp/se>.

Glossary of Abbreviations Used in This Notification

ADR	Alternative Dispute Resolution
CFR	Code of Federal Regulations
EC	California Education Code
FAPE	Free Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
OAH	Office of Administrative Hearings
SELPA	Special Education Local Plan Area
USC	United States Code

Section N: Policies and Procedures on Pupil Records

- Maintenance of Records: Custodian of Records
- General Provisions
(Active, Inactive, and Transfer of Pupil Records)
- Destruction of Records
- State and Federal Statute Related to Student Records and
Special Education Pupils

MAINTENANCE OF RECORDS: CUSTODIAN OF RECORDS

Custodian of Records

(Education Code Section 49062; Title 5, California Code of Regulations (CCR) 431, 433 (b))

- Certificated staff designated by the governing board
- Responsible for district-wide implementation of board policy related to pupil records
- Responsible for the security of pupil records
- Responsible for devising procedures to ensure that access to pupil records is limited to authorized personnel

Location of Records

(Title 5 CCR 433(b))

- Records for each individual pupil must be maintained in a central file at the school attended by the pupil.
- Records maintained in different locations (e.g., discipline, attendance, health records, Individualized Education Programs [IEPs], etc.) should have a notation in the central file that indicates where such records may be found.

Variety of Records

(Title 5 CCR 432)

- **Mandatory Permanent:**
Records, whether in the original or exact copy thereof, which a school must maintain indefinitely for every pupil who was ever enrolled in the school; maintained even if the pupil transfers out of school or graduates
- **Mandatory Interim:**
Records that a school is required to compile and maintain for a stipulated period of time
- **Permitted Records:**
Records which a district may choose to maintain for appropriate education purposes

Provided on the following page is a chart on “GENERAL PROVISIONS *Active, Inactive & Transfer of Pupil Records.*”

The **GENERAL PROVISIONS** Section outlined below was reprinted from the LACOE “Educator’s Guide to Student Records - 2016.”

GENERAL PROVISIONS <i>Active, Inactive & Transfer of Pupil Records</i>			
Varieties of Records	Mandatory Permanent	Mandatory Interim	Permitted
<i>Active Records</i> <i>5 CCR 432</i>	(Minimum) A. Legal Name B. Date of birth C. Method of verification of birth date D. Sex E. Place of birth F. Name & address of parent 1. Pupil’s residence if different 2. Annual verification G. Enter & leave date of each school year, summer session or other extra session H. Subjects taken I. Grades & credits towards graduation J. Immunizations/exemptions K. Date of high school graduation or equivalent L. Conservatorship Court Document	(Examples) A. Access log B. Health records C. Special education tests, forms, IEPs D. Language training records E. Progress reports F. Parental restrictions regarding access to directory information G. Rejoinders to records H. Other parental authorizations or prohibitions I. Standardized tests less than 3 years old J. Work/permits to employ K. Absence slips & verifications <i>5 CCR 400</i> L. Suspension notices/expulsion records <i>EC 48918/49079</i> M. Independent study evaluation/findings <i>EC 51747(b)</i>	(Examples) A. Objective staff ratings B. Standardized test results more than 3 years old C. Routine disciplinary data D. Behavior observations E. All disciplinary notices It is suggested that Section 504 Plans are maintained as Mandatory Interim records similar to the IEPs. Informal notes solely kept for personal use are not considered records. <i>EC 49061(b)</i>
<i>Transfer of Records</i> (keep original or copy) <i>EC 49068</i> <i>5 CCR 438</i>	(Required) • California Public Schools • Private Schools • Out-of-State Public Schools	(Required) • California Public Schools (including number of days of suspension & expulsion record) (Optional) • Private Schools • Out-of-State Public Schools	(Optional) • California Public Schools • Private Schools • Out-of-State Public Schools
<i>Inactive Records – Classification for Destruction</i> <i>5 CCR 437</i> <i>5 CR 16022-16025</i>	Become Class 1 Permanent Record. Maintained in perpetuity.	Continuing record until student transfers/leaves, or usefulness ceases; destroyed in accordance with <i>5 CCR 16020</i> et seq. and Board Policy	Continuing record until student transfers/leaves, or usefulness ceases; destroyed in accordance with <i>5 CCR 437</i> and Board Policy.

DESTRUCTION OF RECORDS

The following section was reprinted with permission from the LACOE “Educator’s Guide to Student Records” (Page 17).

Class 1: Permanent Records

- Retain indefinitely the originals or exact copy of records.
- Specific to students under 5 CCR 16023:
 - Records of enrollment and scholarship; and,
 - All records pertaining to any accident or injury involving a minor for which a claim for damages has been filed until the claim has been settled or the statute of limitations has run out.
- Records may be microfilmed under 5 CCR 16022.

Class 2: Optional Records

- Any record worthy of temporary preservation, but not classified as Class 1, may be retained as long as the record is useful.
- Records deemed no longer useful must be classified as Class 3 prior to destruction.
- Records are required to be reviewed and classified by January 1 of each year for prior year records.

Class 3: Disposable Records

- All records not classified as Class 1 or Class 2.
- Teacher’s registers may be classified as Class 3 only if all information required in 5 CCR 432.
- Unless otherwise specified, all Class 3 records shall be destroyed during the third school year after the school year in which they originated.

Permitted Records

- May be destroyed when their usefulness ceases.
- Destroyed after six months following the pupil’s completion of or withdrawal from the educational program.
- Method of destruction shall assure that the records are not available to possible public inspection in the process of destruction.

Legal references: 5 CCR 437, 16022-16027

SPECIFIC STATE AND FEDERAL STATUTE RELATED TO STUDENT RECORDS AND SPECIAL EDUCATION PUPILS

The following section was used as a reference and adapted from the LACOE “Educator’s Guide to Student Records – 2016.”

TITLE 5 CALIFORNIA CODE OF REGULATIONS (CCR)

5 CCR 432

(2) “**Mandatory Interim Pupil Records**” are those records which schools are required to compile and maintain for stipulated periods of time and then destroyed as per California statute or regulation. Such records include:

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

5 CCR 3024 – Transfer of records, individuals with exceptional needs

In addition to the requirements specified in Education Code Section 56325 and all applicable sections in this chapter, the following shall apply:

- (a) Transfer of 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, within five working days.
- (b) Transition from Elementary School District to High School District. When a pupil is to enroll in a high school district from an elementary district, the elementary district shall invite the high school district to the IEP team meeting prior to the last scheduled review. If the authorized high school personnel participate with the elementary district personnel in the IEP team meeting, the IEP shall specify the appropriate high school placement.

If the authorized representative of the high school district has not participated in the IEP development prior to transfer from the elementary program, the elementary school district shall notify the high school district of those individuals with exceptional needs who require special education and related services. For each pupil listed who enrolls in the high school district, the administrator shall make an interim placement in accordance with Education Code section 56325 or shall immediately convene an IEP team meeting.

(Authority: Sections 49068 and 56100, Education Code. Reference: Sections 49068 and 56325, Education Code)

34 CODE OF FEDERAL REGULATIONS (CFR)

34 CFR 300.611 Definitions

(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(b) Education records means the type of records covered under the definition of “education records” in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.

34 CFR 300.612 Notice to parents

(a) The SEA [State Education Agency] must give notice that is adequate to fully inform parents about the requirements of § 300.123, including -

(1) A description of the extent that the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.613 Access rights

(a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes—

- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
 - (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (3) The right to have a representative of the parent inspect and review the records.
- (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.614 Record of access

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.615 Records on more than one child

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.616 Types and locations of information

Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.617 Fees

- (a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- (b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.618 Amendment of Records at parent's request

- (a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.
- (b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
- (c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under § 300.619.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.619 Opportunity for a hearing

The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.620 Results of hearing

- (a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.
- (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.
- (c) Any explanation placed in the records of the child under this section must –
 - (1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and
 - (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.621 Hearing procedures

A hearing held under § 300.619 must be conducted according to the procedures in 34 CFR 99.22.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.622 Consent

(a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99.

(b) (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

(2) Parent consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with § 300.321(b)(3).

(3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.623 Safeguards

(a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction of stages.

(b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 300.123 and 34 CFR part 99.

(d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.624 Destruction of information

(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

34 CFR 300.625 Children's rights

(a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.

(c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with § 300.520, the rights regarding educational records in §§ 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Section O: Data Collection, Reporting, and Measures for Compliance

- Introduction
 - California Management Information System (CASEMIS)
 - Special Education Management Information System (SEIS)
 - California Longitudinal Pupil Achievement Data System (CALPADS)
 - Annual Performance Review (APR)
- Annual Performance Report (APR) Measures
- Review Processes at California Department of Education (CDE)

INTRODUCTION

There are several methods used for data collection, reporting, and measures for compliance. For the purposes of this Special Education Procedural Manual, the following systems will be highlighted:

1. California Management Information System (CASEMIS)
2. Special Education Management Information System (SEIS)
3. California Longitudinal Pupil Achievement Data System (CALPADS)
4. Annual Performance Review (APR)
5. Review Processes at California Department of Education (CDE)

I. CALIFORNIA MANAGEMENT INFORMATION SYSTEM (CASEMIS)

CASEMIS is, as of 2019, the former means of data reporting and retrieval system for special education, developed by the California Department of Education (CDE), Special Education Division (SED).** The system was designed to assist local educational agencies to submit student level data to the CDE. The system has been in operation since 1987–88 on a voluntary basis, and was fully implemented by all SELPAs by 1994–95. CASEMIS completely replaced all special education enrollment data collections using paper forms. At the same time, what was an electronic IEP generator program has become a complex means of collecting data related to compliance in a number of key areas.

The CDE and the SELPAs established several needs for a statewide student level database in special education. A detailed analysis of these needs and a discussion of the benefits and costs of implementing such a system were documented in a feasibility study prepared by the CDE and approved for statewide implementation by the California Department of Finance in 1989.

Past experience showed aggregate data lacked the degree of detail necessary to answer various program questions. Each time a need arose for new information that was not available in the existing pool of aggregate data, the CDE sent paper forms to LEAs to collect the needed data. These data were fragmented and often inconsistent; therefore, it was difficult for the CDE make any meaningful analysis of the data over a period of time.

The need for program information has continued to increase considerably in recent years. This trend shows no signs of slowing, as many emerging issues in special education require data on a large number of program variables and student characteristics that make reporting quite complex.

Changes in the data requirements and increasing sophistication in their use have made it imperative that the CDE collect primary data (as opposed to secondary, derived, or calculated data) at the student level, rather than aggregate data at the district or SELPA level. This approach allows the CDE to address many program questions using the existing pool of data without requiring additional information from the LEAs. The CDE student level data reporting system provides cleaner data, is cost-effective, and is efficient in meeting information needs.

** Effective with the 2019-2020 school year, all special education reporting is uploaded to the state via the CALPADS section discussed later in this section.

II. SPECIAL EDUCATION MANAGEMENT INFORMATION SYSTEM (SEIS)

The Butte County Special Education Local Plan Area (SELPA) uses **SEIS** as its tracking system for special education data collection. The SEIS is a statewide web-based system that allows centralized, online access for writing IEPs, managing special education data/records, former CASEMIS reporting, and service tracking.

Teachers and service providers can edit Individualized Education Program (IEP) forms at any time, from any device with Internet access. The IEP forms are pre-populated with information from the SEIS Student Record, eliminating repetitive data entry. The SEIS has a built-in error check utility, which can be used at any time. This error check also runs automatically during the IEP Affirm/Attest process so that errors are found and corrected as part of the IEP process.

The SEIS collects and stores all information for:

- Demographic Information;
- CALPADS;
- Individualized Education Programs;
- Desired Results for Children and Families (DRDP)
- Service Delivery; and,
- Progress Reporting.

Multiple goal banks are available in SEIS, including:

- Association of School Administrators (ACSA)/California Association of Resource Specialists (CARS+);
- BASICS Goals;
- California Speech-Language-Hearing Association (CSHA) Goals;
- Ropes Goals;
- Special Education Administrators of County Offices (SEACO) Goals;
- SEACO Revised CAPA Blueprint Goals;
- Early Intensive Autism Intervention Goals;
- English Language Arts for Common Core Goals;
- Math for Common Core Goals;
- Secondary Transition Goals;
- Statewide Teacher Generated Goals;
- Teacher's personal goal bank.

The content above was reprinted from the beta.SEIS.org website.

III. CALIFORNIA LONGITUDINAL PUPIL ACHIEVEMENT DATA SYSTEM (CALPADS)

The California Longitudinal Pupil Achievement Data System (CALPADS) is the foundation of California's K–12 education data system that allows for tracking a student's academic performance over time.

According to the CALPADS *User Manual* (Version 8.5 2/9/2017),

“The California Department of Education (CDE), in response to several federal and state legislative mandates, is unifying and streamlining the data collection process with local educational agencies (LEAs) to support various performance measurements. The objective is to deploy a statewide data collection, reporting, and analysis framework that reflects best practices in data quality and confidentiality management of student-level data.

To meet this objective, the California Longitudinal Pupil Achievement Data System (CALPADS) has been created to collect, maintain, and report statewide information on pupil assessments, enrollment, student and teacher assignments, courses, program participation, as well as other elements that will be used to track graduation and dropout rates, to provide appropriate student services, and to better measure student performance over time.”

Specific to students with disabilities, several reports are now the sole source for discipline events.

Report 7.7 – Discipline Removals for Students with Disabilities – Count

Reports the number of students with disabilities who were removed from their regular instructional setting for disciplinary reasons, regardless of enrollment status. It also reports the total number of removals and the number of students with disabilities who commit offenses that resulted in no suspension or expulsion, by disability category.

Report 7.8 – Unilateral Removals for Students with Disabilities – Count

Reports the number of students with disabilities (by Primary Disability Category) who were removed from their regular instructional setting to an interim alternative setting for disciplinary reasons, regardless of enrollment status. It also reports the counts of removals to interim alternative setting by federal offense category.

Report 7.9 – Discipline Removals for Students with Disabilities – Student List

Reports students with disabilities who were removed from their regular instructional setting for disciplinary reasons, regardless of enrollment status. It also reports characteristics about each student and each incident including the disciplinary action taken and disciplinary action modifications.

Source: <http://www.cde.ca.gov/ds/sp/cl/systemdocs.asp>

IV. ANNUAL PERFORMANCE REVIEW (APR)

The Special Education Annual Performance Report Measures are a series of reports by the California Department of Education (CDE), Special Education Division (SED) to disseminate educational data and improve the quality of education for all students, with an emphasis on students with disabilities.

The **APR** describes California’s progress monitoring measurements in meeting the rigorous targets established in the State Performance Plan (SPP); and any revisions to the State's targets, improvement activities or resources in the SPP and justifications for the revisions.

Consultation on Common APR Targets for Students with Disabilities

The Butte County SELPA collaborates with all LEAs and the Butte County Office of Education Student Programs and Educational Services Department’s Coordinated District Support Team in assisting districts in Differentiated Assistance related to Local Control Accountability Plan targets. Many LEAs identified for Differentiated Assistance have found themselves in this compliance area due to the performance of the student group, “Students with Disabilities.”

According to recent changes in Education Code Section 52062 (a)(5),
“The superintendent of the school district shall consult with its special education local plan area administrator or administrators to determine that specific actions for individuals with exceptional needs are included in the local control and accountability plan or annual update to the local control and accountability plan, and are consistent with strategies included in the annual assurances support plan for the education of individuals with exceptional needs.”

This support will be more formalized beginning in the 2020-2021 school year, to ensure that we are working with all LEAs on common areas of concern between our APR targets that also overlap the California Dashboard areas.

For more information on Technical Assistance, please visit the Butte County SELPA Technical Assistance Padlet at:

<https://padlet.com/abenton1969/ose9j0wjsvc2>

ANNUAL PERFORMANCE REPORT MEASURES


Guidance on Disproportionality

Provided below is a reprint (in part) from the California Department of Education's "CDE Guidance on Disproportionality." This webpage can be found at:

<http://www.cde.ca.gov/sp/se/qa/disproguidance112011.asp>

Background: Individuals with Disabilities Education Act 2004

The Individuals with Disabilities Education Act (IDEA) made many changes in how state educational agencies (SEAs) and local education agencies (LEAs) must now address disproportionality in special education. In the area of disproportionality, SEAs are required to do the following:


- California Annual Performance Report
- The Annual Performance Report (APR) describes the State's progress or slippage in meeting the measurable and rigorous targets established in the State Performance Plan (SPP); and any revisions to the State's targets, improvement activities or resources in the SPP and justifications for the revisions.
- Monitor compliance
- Provide for the review and revision (if appropriate) of policies, procedures, and practices used in identification or placement of children with disabilities in LEAs
- Identify those LEAs with significant disproportionate representation and require them to use 15 percent of IDEA Part B funds for coordinated early intervening services (CEIS)  (DOC)
- Require the LEAs who are identified as significantly disproportionate to report on: (1) the number of students receiving CEIS every year for which the LEA uses IDEA funds for CEIS; and (2) the number of students who received early intervening services, and who subsequently receive special education and related services within two years after receiving CEIS.

The following section has been reprinted from the California Department of Education webpage, "Annual Performance Report Measures" with the link at:

<http://www.cde.ca.gov/sp/se/ds/leadatarpts.asp>

Overall Purpose

The Special Education Annual Performance Report Measures are a series of reports by the California Department of Education (CDE), Special Education Division (SED) to disseminate educational data and improve the quality of education for all students, with an emphasis on students with disabilities.

These reports are required by Individuals with Disabilities Education Improvement Act of 2004 (IDEA)  [20 U.S.C. 1416(b)(2)(C)(ii) and 34 CFR 300.602] and are directly connected to the CDE's Goals, Quality Assurance Process, and Focused Monitoring of special education programs. This is the ninth year reports have been prepared. Beginning this year, the report format has been changed to better align with the California Special Education Part B State Performance Plan (SPP) and the subsequent Part B Annual Performance Report (APR). Local educational agency (LEA) consist of school districts, county offices of education, and charter schools acting as LEAs. LEA reports based on data from school year 2015–16 are available at the bottom of this page.

The performance report measures mirror the measures reported in the SPP and APR. In addition to the SPP and APR, these measures are used to determine the compliance status of each LEA as required by IDEA and to select LEAs, each year, for participation in the Focused Monitoring process. Detailed descriptions of the data elements used to calculate the measures are available in the SPP and APR. For some of the required measures, the number of students served at the LEA level is too small for meaningful calculations. The specific data and calculations underlying the results for an individual LEA or Special Education Local Planning Area (SELPA) are available upon request from the Focused Monitoring and Technical Assistance consultant for that LEA or SELPA.

Data Measures

The 14 SPP Indicators found in the 2017-18 performance reports should not be viewed as the sole determinants of the quality of a LEA's special education program. In addition to the uses outlined above, the reports provide information that can be used by LEA officials and others to help them examine their programs and focus efforts in areas most in need of improvement. Small year-to-year changes are to be expected and may merely reflect the normal phenomena within the educational process. Large differences may reflect a systemic difference in the special education program and may also result from changes in the data gathering and reporting process in the LEA. In any event, the meaning of any changes can only be determined by a closer examination, at the LEA level, of the activities that underlie each measure.

Data Calculations

Calculations may be affected by the placement in licensed children's institutions (LCI) of children whose residences were other than the current LEA. When students are placed in LCIs, their LEA of residence may change to the LEA in which the LCI is located. LCI placements may affect the proportion of children in one or more of the measures because the calculations are based on LEA of residence.

In the past, a very small number of LEAs noted that the data they reported to CDE contained errors. None of the known errors is large enough to appreciably distort measures at the state level, but they could make a difference for some individual LEAs. Measurements for LEAs are not included when the volume of errors in the data submitted precludes calculation of the measure or measures. For the Indicator 3 measures, a "--" symbol in a block indicates there were too few students to calculate a meaningful measure; for all other indicators and measures, a "NC" indicates there were too few students to calculate a meaningful measure. A "NA" indicates that the measure is not applicable to the LEA (e.g., graduation percent for an elementary LEA). A zero indicates the calculated value for that measure is zero. For example, a "NC" in measure 5A indicates there were fewer than 20 students receiving special education in that LEA; a zero in the same block would indicate none of the 20 or more receiving special education in that LEA are educated with their nondisabled peers more than 20 percent of the time.

The *Review Processes* for compliance, applied by the Special Education Division, California Department of Education, are outlined on the following pages.

The Annual Performance Reports for LEA's within Butte County SELPA are provided by CDE on its "Annual Performance Report Measures" webpage. The link is:

<http://www.cde.ca.gov/sp/se/ds/leadatarpts.asp>

REVIEW PROCESSES AT CALIFORNIA DEPARTMENT OF EDUCATION: SPECIAL EDUCATION DIVISION

Link to access Annual Performance Reports: <http://www.cde.ca.gov/sp/se/ds/leadatarpts.asp>

Name of Process (Acronym)	Based on What Data or Indicators?	Required Documents or Process	Technical Assistance Options
<p style="text-align: center;">Comprehensive Review (CR)</p>	<ul style="list-style-type: none"> • Annual Performance Report Data (all indicators) • Compliance History • Complaints • District Data (data from prior reviews) 	<p>A team from CDE will visit for this review and look at student files, conduct Educational Benefit analysis and IEP Implementation, site visit reviews.</p>	<ul style="list-style-type: none"> • WestEd • Sacramento County Office of Ed. (Seeds Partnership) • SPP-TAP • CalSTAT • Napa County Office of Education • Orange County Office of Ed. (SUMS Initiative)
<p style="text-align: center;">Performance Indicator Review (PIR)</p>	<ul style="list-style-type: none"> • 5: Least Restrictive Environment • 1 & 2: Graduation Rates • 8: Parent Involvement <p>For all of the above, either not meeting the target or going backwards.</p>	<ul style="list-style-type: none"> • Assurances • Improvement Plan or updated Improvement Plan • Names & Roles of planning team members • Schedule of planning team meetings 	<ul style="list-style-type: none"> • See above
<p style="text-align: center;">Disproportionate (DIS PRO)</p>	<ul style="list-style-type: none"> • 4a: overall suspension & expulsion SWD • 4b: suspension & expulsion SWD by race or ethnicity • 9: overall disproportionality (identification) • 10: disproportionality by disability 	<p>Currently this will be some form of a desk audit involving a review by the FMTA consultant of the following items depending on the area(s) of disproportionality:</p> <ul style="list-style-type: none"> • Student (IEPs) • Assessment Reports • Documents related to a manifestation determination • Documents related to expulsion hearings • LEA policies and procedures 	<ul style="list-style-type: none"> • SPP-TAP: State Performance Plan Technical Assistance Project website link: https://spptap.org/

REVIEW PROCESSES AT THE C.D.E. SPECIAL EDUCATION DIVISION

Name of Process (Acronym)	Based on What Data or Indicators?	Required Documents or Process	Technical Assistance Options
<p style="text-align: center;">Significant Disproportionality (SIG DIS)</p>	<p>Overrepresentation of a particular racial or ethnic group:</p> <ul style="list-style-type: none"> • 9: Special Education in general (identification) • 10: Special Education in specific disability category • 4a & 4b: Disciplinary Action (suspension/expulsion) • 5: More restrictive Educational Environments 	<ul style="list-style-type: none"> • Assurances • Stakeholder Meetings • CEIS Plan • CEIS Budgets • Expenditure Reports • Progress Reports 	<ul style="list-style-type: none"> • SPP-TAP • Regional Meetings • State Conference
<p style="text-align: center;">Data Identified Noncompliance (DINC)</p>	<ul style="list-style-type: none"> • 11: 60-day timeline • 12: C to B transition • 13: Secondary Transition: (8 elements) • Annual IEP • Triennial Evaluation 	<ul style="list-style-type: none"> • Correct the data: identify date corrected; evidence of correction; and location of evidence. • Upload correct data to portal. • Ensure data is accurate in IEP system. • Work with SELPA to ensure accuracy. 	
<p style="text-align: center;">Complaints (CDE or OAH)</p>	<p>These are complaints filed with either the CDE or OAH. Typically filed by parents, they are routed through our Procedural Safeguards and Complaints Resolution Unit.</p>	<p>Will vary depending on the nature of the complaint. Complaints will be investigated, and corrective actions may or may not be assigned.</p>	<ul style="list-style-type: none"> • Alternative Dispute Resolution options/grants.
<p style="text-align: center;">Critical Incident Reviews</p>	<p>These are done on an “as needed basis” when an incident happens.</p>	<p>Typically involves a visit from a team at CDE.</p>	

Special Education State Indicators Alignment to LCAP Indicators and Dashboard Metrics

Special Education State Indicators	Pre School	DINC	PIR	DISPRO	SIG DIS	COMP REVIEW	LCAP Priority #	DASH-BOARD
Indicator 1 - Graduation 4-Year Rate			✓			✓	5	✓
Indicator 2 - Dropout 4-Year Rate (<11.72%)			✓			✓	5	
Indicator 3 - Statewide Assessment								
% Participated (ELA >95%, Math >95%)			✓			✓	7, 8	
ELA Proficiency			✓			✓	4	✓
Math Proficiency			✓			✓	4	✓
Indicator 4 - Suspension/Expulsion								
A. Overall (<2.76%)			✓			✓	6	✓
B. Race/Ethnic				✓	✓	✓	6	✓
Indicator 5 - LRE								
A. Inside of regular class 80% or more of day (>51.2%)			✓	✓	✓	✓	1, 7	✓
B. Inside of regular class less than 40% of day (<22.6%)			✓	✓	✓	✓	1, 7	✓
C. Separate Facility (<4.0%)			✓	✓	✓	✓	1, 2, 7	✓
Indicator 6 - Preschool LRE								
A. Regular Program (>43.8%)	✓		✓			✓	7	
B. Separate (<32.4%)	✓		✓			✓	7	
Indicator 7 - Preschool Assessments	✓						7	
Indicator 8 - Parent Involvement (>92.0%)			✓			✓	3	✓
Indicator 9 - Racial/Ethnic Disproportionality				✓	✓	✓	1, 2, 4,	✓
Indicator 10 - Disability Disproportionality (varies by				✓	✓	✓	1, 2, 4,	
Indicator 11 - Eligibility Evaluation (100%)		✓				✓		
Indicator 12 - Part C to B Transition (100%) SELPA		✓				✓		
Indicator 13 - Secondary Transition Goals/Services (100%)		✓				✓		
Indicator 14 - Post School								
A. Higher Education (>56.3%)			✓			✓	4	✓
B. Higher Education or Competitively Employed (>76.4%)			✓			✓	4	✓
C. Any Post-Secondary Education or Employed (>85.0%)			✓			✓		✓
Indicator 15 - Resolution Session						✓		
Indicator 16 - Mediation						✓		
Indicator 17 - State Systemic Improvement Plan								
Timely Corrections						✓		
Timely and Complete Reporting						✓		
Audit Findings						✓		
English Learners - CASEMIS							2	✓
FOSTER - CALPADS							10	✓
POVERTY - CALPADS							8	✓

KEY	LCAP Priorities	Dashboard Indicators
DINC: Data Identified Non-Compliance	Priority 1: Basic Services	High School Graduation Rate
PIR: Performance Indicator Report	Priority 2: Implementation of CCSS	Academic Performance
DISPRO: Disproportionate Representation	Priority 3: Parental Involvement	Suspension Rate
SIG DIS: Significant Disproportionality	Priority 4: Student Achievement	English Learner Progress
COMP REVIEW: Comprehensive Review	Priority 5: Student Engagement	Preparation for College/Career
LCAP Priority #: Local Control Accountability Plan Priority Number	Priority 6: School Climate	Chronic Absenteeism
DASHBOARD: Dashboard State and Local Indicators	Priority 7: Course Access	Basic Conditions
PreSchool	Priority 8: Other Student Outcomes	Parental Involvement/Engagement
	Priority 9: Expelled Pupils (COE)	School Climate Surveys
	Priority 10: Foster Youth	Implementation of Academic Standards

02/19/2019

Developed by Placer County and Modified by California Department of Education

Section P: Transition Services and Resources

- Overview of Transition Services and Resources
- Individualized Education Program (IEP)/
Individual Transition Plan (ITP) Procedures
- Completing an ITP
- Eight Criteria of a Compliant IEP/ITP
- Transition Goals
- Age Appropriate Transition Assessment
- Age of Majority/Transfer of Rights
 - Protocol for Age of Majority Information
 - Parent Letter on Information of Transfer of Rights
- High School Graduation and Commencement Participation
- Community Linkages and Interagency Responsibilities
- Secondary Transition Program and Partnerships
- Course of Study

OVERVIEW OF TRANSITION SERVICES AND PROGRAMS

Purpose

The purpose of the “Transition Services and Resources” section is to provide Individualized Education Program (IEP)/Individual Transition Plan (ITP teams with information regarding transition services for students with disabilities, ages 16 and older (or younger, if determined appropriate), and to assist middle school and senior high school staff in carrying out their responsibilities for determining and providing transition instruction and services.

Transition services focus attention on how the student’s education program in middle and senior high school can be planned to help the student meet his or her goals for a successful transition to adult living. The Individualized Education Program/Individual Transition Plan (IEP/ITP) meeting serves as a communication and planning vehicle among parents, students, appropriate community agency representatives, and District staff, and enables them, as equal participants, to make joint, informed decisions regarding the student’s transition needs, appropriate transition services and activities, educational program supports and placement, and the degree to which other agency representatives will participate.

The IEP/ITP sets forth in writing a commitment of resources necessary to enable the student with a disability to receive appropriate transition instruction and services as part of his or her special education program.

Transition services are a coordinated set of activities that are listed below.

- Designed with an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, and independent living or community participation.
- Based on the individual student’s needs, taking into account the student’s preferences and interests, as they are determined through the process of assessment.
- Documented on the IEP/ITP and are inclusive of the student’s need for:
 - Instructional services;
 - Related services;
 - Community experience objectives for the development of employment and other post-school adult living objectives; and,
 - The acquisition of daily living skills and functional vocational evaluation, if appropriate.

Key Points to Remember:

- Transition Services begin no later than the first IEP to be in effect when the child turns 16 or younger if determined appropriate by the IEP Team.
- Best practice is to develop an ITP with the student at the age of 15½ so that it will be in

effect when the child reaches the age of 16.

The ITP should:

- Be updated annually;
- Include measurable postsecondary goals and annual goal statements that are specific to the student, and not generic for all students;
- Include age-appropriate transition assessments in the areas listed below.
 - Education/training
 - Employment
 - Independent living when appropriate
- Include a statement or attachment of the course of study the student should follow to reach their postsecondary goals; and
- Include a statement indicating that the child has been informed of their rights one year prior to the age of majority.

Documentation

The IEP/ITP requires documentation in the transition portfolio or IEP file of the following:

- Student invitations to the IEP/ITP;
- Agency invitations to the IEP/ITP; and,
- Assessment information.

Secondary Transition Planning Resources

The California Department of Education features a webpage, “Secondary Transition Planning.”

<http://www.cde.ca.gov/sp/se/st/>

INDIVIDUALIZED EDUCATION PROGRAM (IEP)/ INDIVIDUAL TRANSITION PLAN (ITP) PROCEDURES

Prior to the IEP/ITP Meeting

1. Assessment and IEP/ITP Focus for Students Beginning At or By Age 16

For students 16 and older (or younger if determined appropriate by the IEP team), transition assessment requires the inclusion of the student's strengths and needs for interagency services and community linkages as appropriate. Any assessment proposed on the Assessment Plan which requires assessment by non-District agencies or agency representatives shall be identified by "Other" on page 2 of the Assessment Plan.

2. Notification of the IEP/ITP Meeting

Participants to be invited to the IEP/ITP meeting include:

- a. The parent/guardian of the student; [L][SEP]
- b. The student for whom an Individual Transition Plan is being developed; [L][SEP]
- c. At least one general education teacher of the student (if the student is, or may be, participating in the general education program); [L][SEP]
- d. At least one special education teacher of the student, or if appropriate, at least one special education provider of the student; [L][SEP]
- e. An administrator or administrative designee; [L][SEP]
- f. A person who is knowledgeable about the assessment procedures used to assess the [L][SEP] student including assessments to determine transition planning for the student, is familiar [L][SEP] with the results of the assessment, and is qualified to interpret the results; and [L][SEP]
- g. As appropriate, representatives of interagency services and community linkages when [L][SEP] being considered for the student. [L][SEP]

Students with disabilities ages 16 and older shall, in addition to their parents/guardians, receive written notification of the IEP/ITP meeting inviting them to participate as a member of the IEP/ITP team. The notification will, in addition to identifying District staff who will attend the meeting, also include a list of agency representatives to be invited, as necessary.

The school must take steps to notify and encourage parent and student presence and participation at the IEP/ITP meeting by inviting them to the IEP/ITP meeting with the Notification to the Parent/Guardian to Participate in Individualized Education Program Meeting form in the parent's primary language, if feasible. The notice will indicate that transition services will be addressed in addition to the other IEP elements.

Along with the written notification, a copy of the *Parents' Rights and Procedural Safeguards* shall be provided to both the parents and the student.

3. Preparing the Student for the IEP/ITP Meeting

In order for the student to knowledgeably participate in the IEP/ITP meeting, the student shall be provided instruction on his or her role, rights, and procedural safeguards. The student should also possess an understanding of their assessment results and have a voice concerning the development of their postsecondary education and employment goals. This instruction shall be provided prior to the meeting by school staff responsible for the delivery of special education services.

COMPLETING AN INDIVIDUAL TRANSITION PLAN (ITP)

An Individual Transition Plan (ITP) must be completed in time to be in effect when the student reaches 16 years of age. Therefore, if you are conducting an annual IEP and the student is 15 or older the ITP should be written at that point. Please consult the State SELPA SEIS IEP Forms Manual for assistance with completion of the various areas of the form, at

https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/77579/State_SELPA_IEP_Manual_Main_Forms_August_2017.pdf

1. Indicate if the student was invited to the IEP meeting. Student should be a participant beginning at the age of 15 or older, therefore “yes” should be marked.
2. Indicate if appropriate, and agreed upon, agencies were invited. If they were mark “yes”, if they were not applicable mark “n/a”. Marking “no” indicates the ITP is out of compliance.
3. Describe how the student participated in the ITP process. Indicate if student was present at meeting, interviews conducted prior, questionnaires completed and inventories completed (COPS-II, Career for Me, interest/personality inventories, etc.) by checking the corresponding boxes.
4. Age-appropriate transition assessments/instruments should be used therefore the ITP should be marked “yes” for utilizing age-appropriate measures. Marking “no” indicates the ITP is out of compliance.
5. Give a description of the results of the assessments. Record the transition assessment information/results used to identify the student’s preferences and interests for transition planning as they relate to his/her post-secondary goals. The goals are what the student plans to do upon graduation/completing school. The gap between the results of the transition

assessment and the student's interests is the basis for the post-secondary goals. It may also include parental input regarding their plans for their child upon graduation. Student's strengths and weaknesses are also appropriate to include.

DO NOT delete previous transition results from this area. Add additional results with the date assessments were conducted.

6. The two post-secondary goal areas that are **REQUIRED** include: Training/Education and Employment. Goals in the area of Independent Living Skills are developed as appropriate.

7. For each goal area indicate the following:

- What will the student do **upon the completion of high school** as related to that area?

For example:

- Upon completion of high school, I will attend a four-year university and study (*insert major*).
- Upon completion of high school, I will take a course in welding at a local community college/trade school.
- Upon completion of high school, I will obtain a job working with animals.

- Indicate the goal that the transition service is **linked to**. These goals should be written on the goals page and labeled accordingly (i.e., Transition-Employment goal, Transition-Education goal). Ensure the goal is measurable.

- Indicate the **person/agency responsible** for the goals (i.e., parent, student, Special Education teacher, counselor, etc.)

- **Transition Service Codes** need to be indicated as appropriate. For example:
 - For the *Training/Education* area you may provide the Service Code of 820 College Awareness.
 - For the *Employment* area you may provide the Service Code of 840 Career Awareness.

- Use the **Transition activities to support post-secondary goal** to identify strategies that will be employed to help the student achieve his/her desired outcomes/services. Some activities may include:
 - Arrange student participation in community based training program
 - Develop the student's job search skills
 - Develop student's ability to use classified ads to locate jobs of interest
 - Assist student with developing his/her resume
 - Develop the student's completion of job applications
 - Provide opportunities for mock job interview
 - Assist student with developing work-related behaviors

- Assist student with developing work-related social skills
- Assist student with developing work awareness skills
- Assist student 's examination of own strengths and interests related to vocational occupations
- Assist student with arranging a visit with local “Career Link” office
- Assist student with developing basic computer skills needed for employment
- Arrange participation in (two) non-paid job try-outs
- Assist student with meeting a guidance counselor to discuss career goals
- Assist student with applying for housing at college of choice
- Assist student with developing conflict resolution skills
- Instruct student to read and understand a sample lease
- Assist student with applying for supported housing through Regional Center
- Assist student with developing basic home maintenance skills
- Assist student with developing basic housekeeping skills
- Arrange student visit to supervised apartment for cost analysis of living expenses
- Arrange student visit to supported apartment
- Assist students with completing a financial aid application.
- Assist student with obtaining driver’s license of California I.D. card
- Assist student with utilizing public transportation
- Assist student with locating a family doctor, dentist
- Assist student identifying opportunities for volunteer activities
- Assist student with becoming eligible for Supplemental Security Income (SSI)/ Social Security Disability Insurance Income (SSDI)
- Arrange a visit to a bank
- Assist student with opening a checking account
- Assist student with developing a personal budget
- Teach student how to pay bills
- Teach student to make grocery lists
- Teach student to shop for purchases
- Teach student to use telephone and telephone book
- Teach student to utilize newspaper for information and enjoyment
- Teach student to discuss legal rights and responsibilities of citizenship
- Assist student with applying for a library card
- Arrange for student to visit a local library
- Assist student with identifying sources of information regarding local resources
- Arrange a visit to a courtroom to observe the jury process
- Assist student with identifying local recreation opportunities
- Assist student with calling a local YMCA to inquire about programs and costs
- Assist student with participating in Special Olympics
- Assist student with contacting organizations
- Assist student with joining a youth group
- Assist student with joining a church choir
- Assist student with exploring community opportunities for music (art) activities
- Assist the student with selecting and participating in a school club

- Assist the student with calling a peer to arrange social activity
- Teach the student with using a newspaper to find current movies
- Assist the student with participating in a Cardiopulmonary Resuscitation (CPR) course

The following should all be marked “yes”, otherwise it will be reported that the ITP is out of compliance.

- Is there an appropriate measurable post-secondary goal(s) that covers education or training, employment and, as needed, independent living?
 - Is the Post-secondary goal(s) addressed/updated in conjunction with the development of the Annual IEP?
 - Are there transition services included in the IEP that will reasonably enable the student to meet his or her post-secondary goals?
 - Are there annual goal(s) included in the IEP that are related to the student’s transition service needs?
8. Indicate the **Course of Study** with a multi-year description of student’s coursework from current year to anticipated exit year, in order to enable the student to meet their post-secondary goal. Check “yes” to remain compliant. State “See attached Course of Study” or “Listed Below”. Ensure either the required paperwork is attached to the IEP or the student’s course of study is listed herein. List the courses that are required for graduation, and additional courses related to goals, graduation, and/or vocational interests. At the annual review, update which courses have been completed and those continuing to be required including the upcoming year of courses. For student’s anticipating a high school diploma the requirements are as follows:
- English Language Arts – 40 credits
 - Mathematics – 30 credits
 - Science- 20 credits
 - History/Social Science – 30 credits
 - Physical Education – 30 credits
 - Visual and Performing Arts/ Foreign Language – 10 credits
 - Freshman Seminar (Computer Technology and Health) –10 credits
 - Electives – 60 credits
9. Indicate the credits completed, and whether a certificate of completion or a diploma is anticipated.
10. Transfer of Rights at the **Age of Majority: Check the box**. On or before the student’s 17th birthday, explain that he or she will assume all special education rights and protections upon turning 18 (unless a conservator has been appointed by the court). Review the *Parents’ Rights and Procedural Safeguards* with the student. This can be completed prior to, during, or after the meeting.

Record the name of the person advising the student and the date this was completed.

Provide the family with a letter explaining this to them. Student and parent shall sign that

they were notified of these rights. Refer to the *Age of Majority/Transfer of Rights* Section for a “Protocol for Age of Majority Information” and a sample letter.

EIGHT CRITERIA OF A COMPLIANT IEP/ITP

Listed below are eight criteria to ensure compliance when conducting an Individualized Education Program/Individual Transition Plan (IEP/ITP).

1. Measurable postsecondary goals are listed in the areas of postsecondary education and training, employment, and independent living if needed.
2. Measurable goals are updated annually.
3. Postsecondary goals are based on age appropriate transition assessments.
4. Transition services are listed that assist students to achieve their postsecondary goals.
5. Transition services include a course of study that aligns with postsecondary goals. (The course of study is not a printout of the student’s academic transcript.)
6. Annual IEP/ITP goals are listed that relate to the student’s postsecondary goals and transition service needs.
7. There is evidence that the student was invited to the IEP/ITP.
8. There is evidence that agencies were invited to the IEP/ITP.

Note: The ITP must be included in the student’s IEP at the time the student turns 16. Best practice is to conduct an ITP at the students age 15 IEP or when the student is 15 ½.

TRANSITION GOALS

Student's Postsecondary Goals:

The student's IEP must include appropriate measurable postsecondary goal or goals that cover education or training, employment, and, if appropriate, independent living.

Postsecondary goals refer to those goals that a student hopes to achieve after exiting high school. A postsecondary goal is not the process of pursuing or moving toward a desired outcome, but the identification of what the desired outcome will be.

EXAMPLES of Transition Goals:

Education/Training:

- Upon completion of school, I will join the Army.
- Upon completion of school, I will enroll in the local Community College.
- Upon completion of school, I will learn independent living skills from the Regional Center.

Employment:

- Upon completion of school, I will work as a mechanic.
- Upon completion of school, I will work as a teacher.
- Upon completion of school, I will work at the Opportunity Center.
- Upon completion of school, I will work in competitive employment.
- Upon completion of school, I will work in supported employment.

Independent Living

- Upon completion of school, I will live on my own.
- Upon completion of school, I will live with friends in a home or apartment.
- Upon completion of school, I will live on my own with help from my family.

Make sure the post-secondary goal is linked to an annual goal that will support the skills needed to reach the student's post-secondary goals.

Person/agency responsible: Put in the student's name and then whoever else will also be responsible.

Updated Annually: There must be documentation that the postsecondary goals in the IEP are for the current year, and have been updated according to the student's changing strengths, preferences and interests. (From State SELPA Forms Manual)

The following content was reprinted from Center for Parent Information and Resources, "Transition Goals in the IEP." The content and links were updated June 2016. These resources are

from the National Technical Assistance Center on Transition (NICHCY) and can be found on the website:

<http://www.parentcenterhub.org/repository/transition-goals/>

In **Transition to Adulthood**, we presented an overview of what IDEA 2004 requires in terms of transition planning for youth with disabilities. A significant aspect of the law's requirements relates to including transition-related goals and statements in the IEPs of students preparing for life after high school. Now it's time to take a much closer look at the kind of information you might include in a student's IEP as part of transition planning.

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First, What IDEA Requires

Let's start by revisiting IDEA's provisions at §300.320(b) regarding what indicate the following must be included in a student's IEP no later than when that student turns 16:

(b) ***Transition services***. Beginning no later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include:

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

NTACT's Checklist of Questions to Ask

NTACT is the National Technical Assistance Center on Transition, at <https://transitionta.org/>, an OSEP-funded project whose expertise is... obviously... secondary transition. As part of its work, NTACT has developed extensive training materials to help states collect data about the transition

services they provide to youth with disabilities (called Indicator 13). Those materials are also useful for our purpose here, which is to look closely at the type of transition information to include in a student's IEP.

NTACT's materials include a checklist of questions to ask, which are adapted here for use by IEP teams as they plan a student's transition services and craft statements to include in the student's IEP.

- Is there a measurable postsecondary goal or goals for the student?
- Can the goal(s) be counted?
- Does the goal(s) occur after the student graduates from school?
- Are the postsecondary goals based on an age-appropriate transition assessment?
- Are there annual IEP goals that reasonably enable the child to meet the postsecondary goal(s) or make progress toward meeting the goal(s)?
- Are there transition services (including courses of study) in the IEP that focus on improving the academic and functional achievement of the child to facilitate his or her movement from school to post-school?
- Do the transition services listed in the IEP relate to a type of instruction, related service, community experience, 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?
- Are representatives of other agencies invited (with parent consent or the student's) to IEP meetings when transition services are being discussed that are likely to be provided or paid for by these other agencies?

NTACT also provides real-life examples that are as illuminating as they are helpful, especially since examples are included for three key domains of transition planning:

- Education/training;
- Employment, and,
- Independent living.

Check out their website for more resources, including data tools, transition planning, evidence-based practices, tool kits and lesson plans.

<https://transitionta.org/>

We'd like to share some of NTAC's examples with you. Again, we've adapted them a bit, to make them more appropriate for use by IEP teams, but all the credit goes to NTAC for this work.

NTAC Example: Education/Training

Here's an example of a measurable postsecondary goal in the domain of ***education/training***.

For the full discussion, with many examples, see:

<https://www.parentcenterhub.org/transition-goals/#postsec>

- After graduation from high school, Alex will enroll at Kings College (a technical school) and take a business math class to improve his work related math skills and to advance his career in business.

This goal meets NTAC's standard because of specific reasons:

- Enrolling in course in a postsecondary education environment is the focus of the goal.
- Goals correspond with Alex's other postsecondary goals of continuing employment (that is highly math skill focused) with a local business.
- Goals reflect Alex's strengths in the area of math.

NTAC also generously provides *nonexamples*. For the goal statement above:

Nonexample:

- Alex plans to apply to Kings College (a technical school).

NTAC says that this statement does not meet the standard, because:

- Goal is written as a process, rather than an outcome that can be demonstrated.
- It is not clear whether the goals take place after graduation from high school.

NTAC Example: Employment

Now let's look at an example of a measurable postsecondary goal in the domain of ***employment***.

- After graduation, Paulo will work 20 plus hours a week at the local grocery store and provided with temporary supports through Vocational Rehabilitation.

This goal is acceptable, because:

- Participation in or maintenance of employment is the focus of these goals.
- Expectation, or behavior, is explicit, as in Paulo continues employment, or does not and Paulo accesses adult agency service (or does not).

- It is stated in this goal that increased employment and use of adult services will occur after Paulo leaves high school.

Would you like to see the *nonexample*? Here you go.

Nonexample:

- Paulo will be referred to Vocational Rehabilitation for assistance with job placement.

Why doesn't this goal meet the standard and, so, is used here as a *nonexample*?

- The expectation for learning, or behavior, is not explicitly stated.
- It is not clear that the activities will continue to occur, or will occur after high school.
- Activities as opposed to goals.

NTAC Example: Independent Living

Now for an example of two measurable postsecondary goals in the domain of ***independent living*** developed for Jamarreo, a 19 year old student identified with emotional and behavioral disabilities, as well as a moderate hearing loss.

- After graduation, Jamarreo will follow the laws of his community, demonstrating an understanding of the need for laws to ensure his and others' safety.
- After graduation, Jamarreo will maintain his hearing equipment by attending annual checkups with audiologist.

These goal statements are acceptably crafted, because:

- Actions will occur after high school.
- Results of the goals are observable (e.g., Jamarreo will or will not stay out of jail, or will or will not maintain his hearing equipment).

And *nonexamples*:

- Jamarreo wants to hang out with friends.
- Jamarreo wants a new less visible hearing aid.

These goals are not acceptably crafted, because:

- "Want" or "expressed interest" are not outcomes.
- Goal statements are not measurable.
- It is not clear these goals will take place after high school.

IEP Goals to Help the Student Achieve Postsecondary Goals

All right, so the IEP team (including the student) has crafted statements that describe the student's postsecondary goals what he or she is going to do or achieve after leaving high school. These goals pertain to the domains of education/training, employment, and (as appropriate for the student's needs) independent living. Now it's time to write corresponding **IEP goals** that will reasonably enable the child to meet the postsecondary goals.

IEP Goals: Education/Training

Continuing with Alex as our example, remember that his postsecondary goal for education/training was: After graduation from high school, Alex will enroll at Kings College (a technical school) and take a business math class to improve his work related math skills and to advance his career in business.

An appropriate IEP goal to help Alex achieve the postsecondary goal might be:

- Given direct instruction in the high school Business Math course and guided practice, Alex will (a) use an adding machine, and (b) create spreadsheets using money management software with 85% accuracy throughout the Spring semester of this IEP.

This annual goal meets standards, because:

- The goal is focused on Alex's acquisition of math skills that will support his enrollment in a postsecondary level business math course.
- The goal includes a condition, measurable behaviors, criteria, and a timeframe.

Now for the contrast of a *nonexample*:

- Given instruction in the high school Business Math course, Alex will participate in class assignments throughout the semester.

Are there problems with this statement? Yes, according to NTAC there are three.

- There are no criteria stated for the adequacy by which Alex should participate in assignments of the course.
- "Participation" does not indicate a skill that Alex will develop that will prepare him for his postsecondary goal of taking a Business Math course at the technical college.
- The goal does not include all components (condition, measurable behavior, criteria, and timeframe).

IEP Goals: Employment

Good old Paolo, back in the example seat. Remember that Paolo's postsecondary goal for employment was: After graduation, Paolo will work 20 plus hours a week at the local grocery store and will be provided temporary supports through Vocational Rehabilitation.

An appropriate IEP goal to help Paolo achieve this postsecondary employment goal might be:

- Given a whole task instruction and a task analysis for bagging groceries, Paolo will demonstrate the steps in the task analysis with 80% accuracy and no more than one verbal prompt weekly by (specific date).

This IEP goal is acceptably written, because:

- Preparing for employment is the primary focus of this goal.
- Acquisition of specific work skills are an important skill for a person who will maintain employment.
- Goal includes a condition, measurable behaviors, criteria, and a timeframe.

How about a *nonexample*?

- Given a list of jobs at a retail store, Paolo will choose which job interests him the most 2 out of 3 times.

This *nonexample* does not reach acceptable standards for goal writing, because:

- Goal does not include all components (condition, measurable behavior, criteria, and timeframe).
- Goal does not support Paolo's postsecondary goals.

IEP Goals: Independent Living

Now the example will relate to Jamarreo (Paulo is quite relieved to get off the hot seat). Recall that Jamarreo's postsecondary goals in the domain of independent living were:

- After graduation, Jamarreo will follow the laws of his community, demonstrating an understanding of the need for laws to ensure his and others' safety.
- After graduation, Jamarreo will maintain his hearing equipment by attending annual check ups with audiologist.

NTAC's examples for appropriate and corresponding IEP goals are:

- Given computer/video enacted role plays of legal and illegal activities, Jamarreo will categorize activities with 80% accuracy by (*specific date*).

- Given explicit instruction on proper care and cleaning of a hearing aid, a task analysis, and weekly opportunities to practice, Jamarreo will demonstrate the steps of the task analysis with 90% accuracy by the end of the school year.

The reasons that these goals meet the standard and are acceptably written are:

- Annual goals will be accomplished by Jamarreo while in high school to prepare him for living independently after high school.
- Annual goals focus on skills and knowledge to be mastered that are measurable.
- Goals include a condition, measurable behaviors, criteria, and a timeframe.

And, keeping with our pattern here (NTAC's, actually), here are *nonexamples* for contrast:

- Jamarreo will meet with the resource officer at the school to discuss the difference between illegal and legal activities.
- Jamarreo will visit the school nurse once a week to talk about hearing aid care.

Why are these two *nonexamples* to help Jamarreo toward achieving his independent living goals:

- Goals do not include all components (condition, measurable behavior, criteria, and timeframe).
- Goals suggest an activity rather than learning a specific skill.

Matching Transition Services to the Postsecondary Goals and the IEP Goals

You'll recall that transition services are determined by the combination of a student's stated postsecondary goals, corresponding IEP goals, and what he or she needs, support-wise, in order to move toward achieving those goals.

By definition, transition services can include:

- 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. [§300.43(a)(2)]

The IEP team's task is to identify and specify the transition services that a student will receive in order to support him or her in reaching the shorter-term IEP goals and the longer-term postsecondary goal. How does the IEP team do that? Let's look at some examples, again from NTAC.

Transition Services: Education/Training

Let's call Alex back to the hot seat. His education/training goal is: After graduation from high school, Alex will enroll at Kings College (a technical school) and take a business math class to improve his work related math skills and to advance his career in business.

What transition services could be provided to support Alex in reaching that goal?

- Self-advocacy skills instruction
- Personal banking instruction
- Work-related social skills instruction
- Computer skills (word-processing, data entry) instruction

Nonexamples might include:

- Reading instruction
- Cooking instruction
- Personal hygiene instruction
- Drivers education instruction

Transition Services: Employment

Here's an interesting example from NTAC that looks at what transition services would be appropriate for a young adult named Jodi. Jodi's postsecondary goals for education/training and employment are:

- Jodi will enroll in courses (non-degree) at Gaston Community College.
- Jodi will attain a part-time position in a community retail environment independently.

What transition services does Jodi need to support her in reaching these two goals?

- Travel instruction
- Instruction related to hygiene
- Instruction related to functional math skills
- Personal banking instruction
- Community based instruction at Wal-Mart to introduce her to retail employment skills
- Instruction related to social skills in school and work settings

What would qualify as a *nonexample*—in other words, a transition service that would not be appropriate support for Jodi in reaching her postsecondary goals?

- Instruction related to janitorial skills
- Community-based instructional experiences in restaurant settings

Transition Services: Independent Living

Working with Jamarreo as our example this time, recall that his independent living goals were:

- After graduation, Jamarreo will follow the laws of his community, demonstrating an understanding of the need for laws to ensure his and others' safety.
- After graduation, Jamarreo will maintain his hearing equipment by attending annual check ups with audiologist.

Jamarreo's IEP team decides that he'll need specific transition services to help him move toward achieving those goals after high school. The services they specify are:

- The related services of:
 - Interpreter services for the hearing impaired;
 - Counseling services to increase ability to manage anger; and,
 - Audiology for hearing aid maintenance
- Referral to Medicaid for augmentative communication device coverage (i.e., hearing aid)
- Mentor program through local YMCA/police department

Nonexamples, on the other hand, might include such transition services as:

- Speech services (he doesn't have a speech impairment)
- Occupational therapy (he has no needs for refining his fine motor skills)
- Community-based instructional experiences related to the food service industry (he's not interested in working in the food industry)
- Two trips to adult vocational day placement
(Jamarreo is capable of obtaining full-time competitive employment)

In Conclusion

Pshew. That was a lot of reading, wasn't it? Hopefully, NTAC's excellent work, adapted here, will help you when it comes time to help students plan for transition to life after high school and especially to write an IEP that will:

- Capture the student's postsecondary goals in concrete, measurable terms;
- Write corresponding IEP goals to support and prepare the student to achieve the postsecondary goals after leaving high school; and,
- Reflect the IEP team's decisions about the transition services the student needs (including what the student will study while still in high school) in order to achieve the postsecondary goals.

Transition planning is complicated and involved. There are so many dimensions of adulthood to consider! That's why, for students with disabilities, planning ahead is critical. The more significant

the disability is, the more imperative it is to prepare, plan, specify, investigate, coordinate, and support.

AGE APPROPRIATE TRANSITION ASSESSMENT

A student's transition services are determined by using a variety of assessment tools that are culturally, developmentally, and linguistically appropriate. Transition assessment instruments and procedures should provide the Individualized Education Program (IEP)/Individual Transition Plan (ITP) team functional as well as developmental information necessary for determining the student's course of study and development of their postsecondary educational and employment goals. Effective transition assessment guides the student's interests and needs, which in turn, assists the student with developing lifelong education and employment training goals.

Age Appropriate Transition Assessment

- Is an ongoing process of collecting data on the individual's needs, preferences, and interests as it relates to the student's future educational, employment, and personal/social environmental pursuit.
- The common thread in the transition process.
- Forms the basis for defining goals and services to be included in the IEP/ITP.
- Include activities, assessments, content, environments, instruction, and/or materials that reflect a student's chronological age.

It is appropriate to use a combination of the following types of assessments:

- Paper and Pencil tests
- Structured student and family interviews
- Community or work-based assessments (situational)
- Curriculum-based assessments

Examples of age appropriate informal and formal assessments include:

Interviews or questionnaires	Formal adaptive behavior scale – Vineland
Curriculum-based assessments	Independent Living Assessment
Interest inventories	Personality or preference tests
Preference assessments	Aptitude tests
Transition planning inventories	Achievement tests (Woodcock Johnson)
Functional skill inventories	On-the-job training evaluations
Direct observations	Measures of self-determination
Anecdotal records	Career development measures

Transition assessment information can be used for:

- IEP/ITP Planning;
- Placement decisions;
- Student counseling and guidance;
- Parent/family collaboration;
- Curriculum planning; and,
- Referrals and linkages.

In order to effectively document assessment results you should:

- Describe the assessments/instruments used annually in education/training, employment and independent living.

Include:

- Name and date of tool used
- Brief summary of results (learning style inventories; career interests, aptitudes or values assessments, etc.)
- Outcomes of any work, training or community service

Note: Conducting a formal transition assessment requires an assessment plan to be signed by the minor child's parent/guardian.

AGE OF MAJORITY/TRANSFER OF RIGHTS

It must be clearly documented on the Individualized Education Program (IEP)/Individual Transition Plan (ITP), at least one year before the student's 18th birthday that the student has been informed that his or her procedural rights and safeguards will transfer from the parent to the student upon reaching the age of 18, unless the student has been determined under State law to be incompetent or the parent/guardian of the student has been legally determined the student's conservator.

Note: On the IEP/ITP record the name of the person advising the student of their rights and the date that it was completed. Ensure that the completion box has been checked.

California Education Code Section 56345 (g) reads,

Beginning not later than one year before the pupil reaches the age of 18 years, a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years pursuant to Section 56041.5.

California Education Code Section 56041.5 reads,

When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under state law, the local educational agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded to a parent under this part shall transfer to the individual with exceptional needs. The local educational agency shall notify the individual and the parent of the transfer of rights.

California Education Code Section 56026 A-C reads,

Age Out of the K-12 system at age 22

(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 established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(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 July, August, or September of 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.

PROTOCOL FOR AGE OF MAJORITY INFORMATION

On or before a student's 17th birthday, Special Education Case Manager (or designee) for the student shall mail a copy of the "Age of Majority" letter to parents/guardians and document the date the letter was mailed.

The Case Manager is responsible for explaining the Age of Majority Letter and forms to parent/guardian and student at the annual IEP preceding the student's 18th birthday.

Case Managers should explain the following to students on their caseloads:

1. “If when you turn 18, you want to keep all your rights and you want to make all decisions regarding your education, you do not need to sign any forms. If you don’t sign either form in number (2) or (3) below, we will send your IEP invitation home addressed to you and it would be up to you to decide whether you want your parents/guardians to attend. If you sign no forms, your teachers and counselor will not inform your parents/guardians of anything related to your educational progress, including making and responding to calls or emails about your attendance/grades.”
2. “If when you turn 18, you want the school to have the ability to share information about your IEP with your parents, then you will need to sign the **Authorization to Release Information Form**. You may choose to share only some types of information with your parents/guardians. You will need to indicate this on the Authorization to Release Information Form.”
3. “If when you turn 18, you want to give all educational decision-making authority to parent/guardian, you and your parent/guardian will need to sign the **Assignment of Educational Decision-Making Authority** form and return to Case Manager. Please review items 1 through 7 on the Assignment of Educational Decision-Making Authority form for a detailed explanation of what this includes.”
4. If any forms are signed, the Case Manager is responsible for (1) copying the signed form(s), (2) keeping one for teacher records, and (3) giving the original to the special education secretary. The special education secretary will keep a copy for school records and send the original to the special education district office.

Included on the following page is a sample parent letter on the transfer of rights information.

SAMPLE FORM – Age of Majority and Transfer of Rights Notification

Date _____

Dear Parent(s) /Guardian(s) of _____

The Individuals with Disabilities Education Improvement Act (IDEA) requires each student and his/her parent to be notified by the NAME Unified School District about the transfer of rights and procedural safeguards to the student. While the transfer takes place on the student's eighteenth birthday (Age of Majority), the District is obligated to make this early notification on or before the student's seventeenth birthday. When a student reaches the age of majority (age 18), the parents are notified that this transfer of rights and responsibilities will take place unless the parents have obtained a conservatorship. *

** Conservatorship is established through a probate procedure. The school district cannot provide legal advice to you about the process. We would recommend that you consult with a local attorney who is experienced in special education or probate law.*

The following are some of the rights and responsibilities that transfer to the adult status student:

- To participate in their own educational planning.
- To represent themselves in Individual Educational Program (IEP) team meetings.
- To approve their own IEP.
- To approve assessment plans necessary to evaluate progress and to determine the continuing need for Special Education services.
- To use the due process procedures to challenge the educational program that is being offered to them by the school district.

As the parent, you have received these procedural rights/safeguards at previous IEP meetings.

Unless the student at the time of reaching the age of majority designated in writing another person, such as you the parent/guardian, to act in his/her behalf, invitations to meetings and school documents will be sent to the student for their signature. The IEP invitations will be sent home addressed to student and it is up to the student to invite the parent to the IEP team meeting.

To designate another person to approve and execute programs and records, the adult student should obtain and complete the "Assignment of Educational Decision-Making Authority" form available from the Special Education Case Manager. The District cannot provide the student with legal advice about this form. He or she may also choose to use a power of attorney, it must be notarized and provided to the school site Principal so that it can be kept in the student's cumulative record.

Should you have any questions about the early notification contained in this letter, please contact the District Office of Special Education at:

Sincerely, *(Signature)*

HIGH SCHOOL GRADUATION AND COMMENCEMENT PARTICIPATION

I. Introduction

The purpose of these guidelines is to provide Individualized Education Program (IEP) teams with the SELPA's policy and procedures on graduation and participation in commencement exercises by students with disabilities. These guidelines shall be made available to all District staff participating as IEP team members including, but not limited to, the administrator or administrative designee, general education teachers, special education teachers, special education itinerant staff, and support services staff.

II. Butte County SELPA Policy

A. State Minimum Requirements for Diploma

Beginning in the 1986-87 school year, California *Education Code (EC) 51225.3* has specified a minimum set of courses to meet state requirements to graduate from high school and receive a diploma. The governing boards of local education agencies (LEAs) have the authority to supplement the state minimum requirements at the local level.

EC 51225.3 states that all pupils receiving a diploma of graduation from a California high school must have completed all of the following courses, while in grades nine to twelve, inclusive:

- Unless otherwise specified, each course shall have a duration of one school year:
 - Three courses in [English](#)
 - Two courses in [mathematics](#), including one year of Algebra I (*EC Section 51224.5*) – NOTE: *Special education students have to meet the Algebra I/Mathematics I graduation requirement. In order to earn a high school diploma, students in special education are required to pass a course or combination of courses based on all Algebra I or Mathematics I content standards. The Algebra I or Mathematics I content standards are the same for all students; however, some students in special education may require accommodations or modifications to instruction. The individualized education program team determines the type of instruction appropriate for each student.*
 - Two courses in [science](#), including biological and physical sciences
 - Three courses in [social studies](#), including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics, and a one-semester course in economics
 - One course in [visual or performing arts](#), [foreign language](#), or commencing with the 2012-13 school year, career technical education. For the purpose of satisfying the minimum course requirement, a course in American Sign Language shall be deemed a course in foreign language
 - Two courses in [physical education](#), unless the pupil has been exempted pursuant to the provisions of *EC Section 51241*
- Other coursework adopted by the local governing board of the LEA

B. Requirements for Certificate of Completion (for students who are severely impaired)

A student with a disability who has satisfied some, but not all, requirements for a diploma may be awarded a certificate of completion. School boards have broad authority to grant a certificate of completion to students who have exhibited:

1. Satisfactory achievement of the student's IEP goals and objectives during high school as determined by the IEP team; or,
2. Satisfactory high school attendance, participation in the instruction prescribed in the student's IEP, and achievement of the objectives of the statement of transition services.

C. Commencement Exercises for Students with Disabilities

Only students who meet diploma requirements and special education students who qualify for a certificate of completion are eligible to participate in graduation ceremonies. A student with disabilities who meets the criteria for a certificate of completion is eligible to participate in any graduation ceremony and any school activity related to graduation in which students of similar age without disabilities would be eligible to participate.

Failure by a student to meet school citizenship standards may result in the denial of participation in graduation ceremonies and in the denial of participation in graduation ceremonies and in the denial of participation in senior class activities.

The District's obligation to provide a free appropriate public education (FAPE) does not apply to students with disabilities who have graduated from high school with a regular high school diploma. However, the District is obligated to make available a free appropriate public education to students who have received a certificate of completion and have not been awarded a regular high school diploma until the student becomes 22 years of age.

III. IEP Team Procedures for Students with Disabilities 16 Years of Age and Older

A. Prior to the IEP Meeting

1. Notification of the IEP/ITP Meeting
 - Schools are required to provide written notice to parents of a student with disabilities and the student beginning at age 16, when an IEP team meeting is being scheduled during which the team proposes to initiate or change the identification, evaluation, or educational placement of the student, or the provision of a free appropriate public education to the student. Graduation is legally considered to be a change of educational placement and a change in the provision of a free appropriate public education.
 - The notification will, in addition to identifying District staff who will attend the meeting, also include a list of agency representatives to be invited, as necessary.

- The school must take steps to notify and encourage parent and student presence and participation at the Individualized Education Program (IEP)/Individual Transition Plan (ITP) meeting by inviting both to the IEP/ITP meeting with the Notification to the Parent/Guardian to Participate in Individualized Education Program Meeting form in the parent’s primary language, if feasible.
2. Notification of the IEP/ITP Meeting
 - In order for the student to knowledgeably participate in the IEP/ITP meeting, the student shall be provided instruction on his or her role, rights, and procedural safeguards. This instruction shall be provided prior to the meeting by school staff responsible for the delivery of special education services.
- B. During the IEP Meeting
1. Annual or Triennial Review IEP/ITP Meeting
 - The IEP/ITP team shall discuss with the parent and the student the following areas at every annual and triennial review IEP/ITP meeting beginning with the year the student will turn age 16.
 2. The District’s requirements for graduation with a diploma or certificate of completion, including:
 - The difference between a diploma and certificate of completion;
 - The right of students to continue their education to age 22, unless they have earned a diploma;
 - The course of study that must be satisfactorily completed for a diploma;
 - The exams that must be passed for a diploma;
 - The criteria for receiving a certificate of completion; and,
 - The District’s prescribed alternative course of study.

As part of the discussion of present levels of performance, the IEP/ITP team shall review the school’s graduation checklist, including the courses the student has satisfactorily completed or is currently taking that will lead to graduation. The IEP/ITP team will also discuss the performance of the student on required exams for graduation with a diploma and any indications of how the student may perform on any upcoming exams or accommodations that may be used.

On the IEP/ITP Form, the following information must be completed.

District Graduation Requirements – Course of Study

A multi-year description of student’s coursework from current year to anticipated exit year, in order to enable the student to meet their post-secondary goal. Yes No

Units / Credits Completed _____ Units/Credits Pending _____

Student's Course of Study leads to: (Select one option below)

- Certificate of Completion Diploma

Anticipated Completion Date ____/____/_____

Age of Majority

- On or before the student's 17th birthday, he/she has been advised of rights at age of majority (age 18) By whom _____ Date ____/____/_____

When you reach the age of 18, the age of majority, you have the right to receive all information about your educational program and make all decisions related to your education. This includes the right to represent yourself at an IEP meeting and sign the IEP in place of your parent or guardian.

The following questions must be answered:

- Is there an appropriate measurable post-secondary goal(s) that covers education or training, employment, and as needed, independent living? Yes No
- Is the post-secondary goal(s) addressed/updated in conjunction with the development of the Annual IEP? Yes No
- Are there transition services included in the IEP/ITP that will reasonably enable the student to meet his or her post-secondary goals? Yes No
- Are there annual goal(s) included in the IEP/ITP that are related to the student's transition service needs? Yes No

IV. California High School Exit Examination

The following information was reprinted from the California Department of Education (CDE) website, “California High School Exit Examination (CAHSEE)” at the link:

<http://www.cde.ca.gov/ta/tg/hs/>

CAHSEE Suspension

Beginning with the Class of 2006, students in California public schools were required to pass the California High School Exit Examination (CAHSEE) to demonstrate competency in grade-level skills in reading, writing, and mathematics to earn a high school diploma. The content of the CAHSEE was based on content standards in English-language arts and mathematics that were adopted by the State Board of Education (SBE) in 2003. In 2010, the SBE adopted the Common Core State Standards in English–language arts and mathematics.

Due to the change in academic standards, Senate Bill 172 (Liu) was signed by the Governor to suspend the administration of the CAHSEE and the requirement that students pass the CAHSEE to receive a high school diploma for the 2015–16, 2016–17, and 2017–18 school years. The law required that schools grant a diploma to any pupil who completed grade twelve in the 2003–04 school year or a subsequent school year and met all applicable graduation requirements other than the passage of the high school exit examination. The law further required the State Superintendent of Public Instruction to convene an advisory panel to provide recommendations to the Superintendent on the continuation of the high school exit examination and on alternative pathways to satisfy the high school graduation requirements pursuant to *Education Code* sections 51224.5 and 51225.3. The law became effective on January 1, 2016.

1. *What is EC Section 60852.3?*

Beginning with 2009–10 school year, California *Education Code* Section 60852.3 provides an exemption from meeting the CAHSEE requirement as a condition of receiving a diploma of graduation for eligible students with disabilities who have an individualized education program (IEP) or a Section 504 plan. The IEP or Section 504 plans must state that the student is scheduled to receive a high school diploma, and has satisfied or will satisfy all other state and local requirements for high school graduation, on or after July 1, 2009.

2. *Should students with disabilities, who are eligible for the exemption, be encouraged to continue to attempt to pass the CAHSEE?*

Yes, the CAHSEE represents academic standards which all students should be encouraged to meet. Students who are eligible for the exemption allowed by California *Education Code* Section 60852.3 are required to take the CAHSEE in

grade ten to fulfill the requirements of the federal No Child Left Behind Act of 2001. Students should continue to take the CAHSEE, and to receive appropriate remedial instruction, as it is not prohibited by the law. However, as described below, students who are eligible for the exemption may not be required to pass the CAHSEE in order to receive a diploma. Furthermore, local educational agencies are strongly encouraged to continue to offer remedial instruction and access to the CAHSEE.

3. Do students need to have a specific disability to be eligible for the exemption?

California *Education Code* Section 60852.3 provides that any student with disabilities (any type of disability, for any duration) who has an individualized education program or a Section 504 plan, and meets all requirements for the exemption, is exempt from meeting the CAHSEE requirement as a condition of graduation.

4. How long will this exemption be in effect?

California *Education Code* Section 60852.3(b) states that this exemption will last until the State Board of Education (SBE) makes either a determination that alternative means to the CAHSEE for students with disabilities are not feasible or such alternative means have been implemented.

5. May a student with a disability who left high school between January 1, 2008 and July 1, 2009, without a diploma (because he or she did not pass CAHSEE), be allowed to re-enroll in high school and receive a diploma under this law?

Under the Individuals with Disabilities Education Act (IDEA), students are entitled to special education services until age twenty-two or until they receive a diploma. Thus, a local educational agency (LEA) may be required to reopen and revise an individualized education program (IEP) for a student who left high school without receiving a diploma, if the student has not reached age twenty-two. If appropriate, the IEP team may revise the IEP of an eligible student. Such appropriate revisions should include additional quality instruction to help the student pass the CAHSEE and may include receiving a diploma without passing the CAHSEE. If the revised IEP calls for receipt of a diploma after July 1, 2009, and the student has satisfied or will satisfy all other graduation requirements, then the student may be exempted from the CAHSEE requirement under the new statute. It is within the discretion of the IEP team to determine what revisions to the IEP, including further instruction, are appropriate for a particular student. A dispute over that determination would be subject to due process.

Students with only Section 504 plans do not have the same procedural protections as students with IEPs. Federal regulations indicate that one way to guarantee Free Appropriate Public Education (FAPE) under Section 504 is to provide the same procedural protections as required under the IDEA. However, since the rules are not identical, LEA personnel should consult with local counsel when adopting or applying policies regarding re-enrolling students with only Section 504 plans for purposes of receiving a diploma under the exemption statute.

6. Does this exemption apply to students with disabilities with an individualized education program (IEP) or a Section 504 plan who completed all graduation requirements, except passing the CAHSEE, and received a certificate of completion in 2008 or 2009?

Yes, students with an IEP or a Section 504 plan who completed all graduation requirements, except passing the CAHSEE, and received a certificate of completion in 2008 or 2009, are eligible for this exemption as described in question 5 above.

7. Is a student enrolled in an adult school eligible for the exemption?

A student enrolled in an adult school offered by a kindergarten through grade twelve (K-12) local educational agency, who left high school without receiving a diploma, should be treated the same as any other student described in questions 5 and 6 above.

8. May a local educational agency adopt an individualized education program (IEP) or Section 504 plan for the sole purpose of exempting the student from the CAHSEE requirement?

No, the new law expressly prohibits adopting an IEP or Section 504 plan for that purpose if the student is or was not previously eligible for special education and related services.

9. Does the individualized education program (IEP) or Section 504 plan need to document whether or not the student is exempt from passing the CAHSEE?

The Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (ESEA) require that the IEP or Section 504 plan address how the student will participate in statewide assessments. If a student with disabilities will not be taking the CAHSEE this year, that should be noted in the IEP or Section 504 plan and should state that the student will meet the CAHSEE requirement through the exemption.

10. What are the three pathways that students with an individualized education program (IEP) or Section 504 plan can use to meet the CAHSEE requirement?

Pass the CAHSEE – The student scores 350 or higher on the mathematics and English-language arts (ELA) portions of the CAHSEE with the use of accommodations but without the use of modifications.

Request a local waiver – The student scores 350 or higher on the mathematics and/or ELA portion of the CAHSEE with the use of modifications. More information about the CAHSEE local waiver for students with disabilities can be found on the CDE [Q and A for Test Variations Web page](#).

Exemption – The student has a current and valid IEP or Section 504 plan that indicates the student is scheduled to receive a high school diploma, has satisfied or will satisfy all other state and local graduation requirements on or after July 1, 2009. Students using this pathway to meet the CAHSEE requirement shall take the CAHSEE in grade ten for the purpose of meeting the federal requirements under the Elementary and Secondary Education Act.

11. May local educational agencies require students with disabilities to take the CAHSEE beyond grade ten until they pass or score at least 350 with modifications and qualify for a waiver?

No, the student's right to an exemption is state law and local educational agencies do not have authority to impose the requirement locally. However, as discussed above, a student should be encouraged to continue to take the CAHSEE with appropriate instructional support as addressed in a revised individual education program or Section 504 plan.

12. Is there any required notification to parents/guardians, local boards of education, the State Board of Education (SBE), or the California Department of Education (CDE) regarding which students are eligible for the exemption?

California Education Code Section 60852.3 does not require that parents, local boards of education, the SBE, or the CDE be notified regarding which students are eligible for the exemption. Eligibility is determined by the IEP team or Section 504 plan team of which the parent/guardian is a member. Local educational agencies may develop their own forms for internal purposes. Parent/guardian notification with regard to this exemption should be treated like any other issue affecting eligibility for special education.

13. Must students with disabilities take the CAHSEE in grade ten?

All grade ten students must participate in the CAHSEE to satisfy Adequate Yearly Progress (AYP) requirements. The exemption from passing the CAHSEE for purposes of receiving a diploma of graduation does not affect the requirement of taking the CAHSEE in grade ten.

Note: Students with significant cognitive disabilities who participate in the California Alternate Assessment (CAA) satisfy participation in AYP and do not take the CAHSEE in grade ten.

14. Are students with significant cognitive disabilities who participate in the CAA eligible for the exemption?

Students with significant cognitive disabilities that have an individualized education program or Section 504 plan generally participate in an alternative curriculum that has significantly modified grade-level standards. These students are not typically scheduled to receive a high school diploma.

However, if the student has satisfied or will satisfy all other state and local graduation requirements on or after July 1, 2009, then the student would be exempt from passing the CAHSEE in order to earn a high school diploma. The student would then be awarded a diploma.

Note: Students who earn a high school diploma or reach age twenty-two are no longer eligible to receive special education support and services.

15. Does this exemption affect instructional practices or intensive intervention courses?

The Individuals with Disabilities Education Act (IDEA) and Section 504 require access to grade-level curriculum. Therefore, the exemption of the requirement to pass the CAHSEE should not limit students' access to the general curriculum.

Local educational agencies are encouraged to continue providing intensive instruction.

COMMUNITY LINKAGES AND INTERAGENCY RESPONSIBILITIES

WorkAbility I Program

An essential component of transition services is the WorkAbility I (WAI) Program which provides instruction and experiences that reinforce core curriculum concepts and skills leading to gainful employment. The WAI High School program enables students with an IEP the opportunity to bridge the gap between school and community through employment skills training, career based field trips, job shadowing, and job training opportunities.

Add link:

The WAI Middle School program is designed to empower students at the middle school level to create a personal vision and prepare them to enter high school with academic/social skills and career awareness to make informed choices. Key components include coordinated instruction and activities that integrate school, community and the workplace. Activities may include, but are not limited to:

- Career interest inventories;
- Speaker's Bureau;
- Service Learning; and,
- Career based fieldtrips.

Department of Rehabilitation (DOR)

The Department of Rehabilitation (DOR) is to assist Californians with disabilities to obtain and retain employment and maximizes their ability to live independently in their communities.

Some of the no-cost client services they provide include:

- Vocational evaluation;
- Resume and portfolio development;
- Career guidance and counseling;
- Career exploration and planning;
- Transportation assistance; and,
- Job development/placement assistance.

COURSE OF STUDY

The National Secondary Transition Technical Assistance Center (NSTTAC) define courses of study as “a multi-year description of coursework to achieve the student’s desired post-school goals, from the student’s current to anticipated exit year.”

The course of study must intentionally and explicitly reflect each student’s secondary and postsecondary transition goals and be written in a generic manner so that it is portable across district and/or state lines. Student progress towards achieving a high school diploma or certificate of completion should be monitored at least once annually with consideration given to attendance, grades, credit status and other educational performance measures. The course of study should also be reviewed at least once annually for all students.

Course of Study: Courses of study are defined as a multi-year description of coursework that explicitly connect to the student’s desired post-school goals, from the students’ current to anticipated exit year. Transcripts are not considered a course of study unless they also contain the list of future required courses to be completed by the student. Include a sentence as to how the completion of the student’s course of study and diploma or certificate of completion will increase the student’s ability to achieve his or her post-secondary goals. Here are options for conveying this information:

The chart below reflects the generic courses with commonly used course titles:

Grade 9	Grade 10	Grade 11	Grade 12
English I Social Science (personal growth, geography) Math (Algebra I) Science (Biology) PE Elective	English II Social Science (History) Math (Intermediary Algebra) Science (Physical Science) PE Elective	English III Social Science (American Government) Math (Geometry) Science (Chemistry) Elective Elective	English IV Social Science (Economics) Elective Elective Elective Elective

* Electives are defined as Foreign Language (a language that is not English), Visual/Performing Arts, and Career-Technical Education classes and Regional Occupation Programs/Classes.\

* The course of study may also include extracurricular activities that relate to post-secondary goals (yearbook, school newspaper, athletics, student leadership organizations (Future Farmers of America, Future Business Leaders of America, Key Club, etc.)

The school transcript suffices for meeting this expectation only if it includes the multi-year course of study. If it only lists the current or past years’ classes, grades and credits, it is insufficient for meeting this requirement.

A sample course of study for a certificate bound student may include:

Functional Academics	Domestic Domain	Community Domain	Vocational Domain
<ul style="list-style-type: none"> • English Language Arts • Listening & Speaking • Math 	<ul style="list-style-type: none"> • Grooming & Hygiene • Personal Safety • Life Skills 	<ul style="list-style-type: none"> • Social Behavior • Community Resources • Recreation and Leisure • Communication Skills 	<ul style="list-style-type: none"> • Career Exploration • Work Related Training • Future Living, Working

Diploma: Attach a form with all diploma coursework presently being completed and all required future coursework that needs to be completed. Be sure to include the names of the specific electives that are being taken and will be taken.

Certificate: Describe the functional areas being worked on currently and future areas to be addressed prior to exit from school.

SUPPLEMENTARY INFORMATION

A supplement to the Butte County Local Plan and SELPA Procedural Manual includes the following:

APPENDIX A

Additional Butte County SELPA Policies

- GBP 1 Alternate Dispute Resolution
- GBP 2 Behavior Interventions and Emergencies
- GBP 3 Charter Schools
- GBP 4 Classroom Observation Guidelines
- GBP 5 Compliance
- GBP 6 Correctional Facilities
- GBP 7 Due Process
- GBP 8 Educationally-Related Mental Health Services
- GBP 9 Funding and Budget Allocation
- GBP 10 Governance
- GBP 11 Independence Facilitator Assistance
- GBP 12 Independent Educational Evaluations
- GBP 13 Independent Study
- GBP 14 Low Incidence Policies
- GBP 15 Maintenance of Effort
- GBP 16 Multi-Tiered System of Support
- GBP 17 Non-Public Schools Oversight and Rate Negotiations
- GBP 18 Over-Identification and Disproportionality
- GBP 19 Private Schools
- GBP 20 Program Transfer
- GBP 21 Regional Services
- GBP 22 Request for Out Of District Placement

APPENDIX B

Additional Butte County SELPA Procedures

- DCP 1 Behavior Interventions and Emergencies Procedures
- DCP 2 Dispute Resolution Procedures
- DCP 3 EDCC Placement, Meeting, and Referral Guidelines and Procedures
- DCP 4 Educationally Necessary Mental Health Services IEP Procedures
- DCP 5 Independence Facilitator Assistance (IFA) Procedures
- DCP 6 Individual Service Plan Procedures
- DCP 7 Low Incidence Equipment and Services Guidelines and Procedures
- DCP 8 Regional Placement Procedures

APPENDIX C

Manuals – links only provided below

- REF 1 Butte County SELPA Procedural Manual, 2020
www.buttecountyselpa.org
- REF 2 Come to PPIECES Mental Health Guidelines, 2016
<http://tinyurl.com/gstssqg>
- REF 3 Eligibility Criteria Handbook, 2017
https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/310084/Eligibility_Criteria_Handbook_Oct17.pdf
- REF 4 Pattern of Strengths and Weaknesses Guidelines, 2017
https://core-docs.s3.amazonaws.com/documents/asset/uploaded_file/87003/PSW_Manual_DRAFT_5.24.17.pdf
- REF 5 State SELPA SEIS Forms Manual, 2019
<https://seisprodtableswest.blob.core.windows.net/trainingmanual-storage/2416f43c-e7b7-4e28-a796-6b9789828c18.pdf>
- REF 6 State SELPA SEIS Supplemental Forms Manual, 2019
<https://seisprodtableswest.blob.core.windows.net/trainingmanual-storage/7b767e82-df4f-43a4-8475-be01e7e41919.pdf>

APPENDIX D

Inter-Agency Agreements and Memoranda of Understanding

- AGR 1 California Children’s Services – Occupational and Physical Therapy
- AGR 2 Far Northern Regional Center – Early Start Services
- AGR 3 Rowell Family Empowerment – Advocacy for Parents/Guardians
- AGR 4 Butte County Dept. of Employment and Social Services – Data Sharing
- AGR 5 Butte County Behavioral Health – Mental Health Collaboration

APPENDIX E

Other Official Documents

- CAC 1 Butte County SELPA Community Advisory Committee By-Laws