

NORTH SANTA CRUZ COUNTY SPECIAL EDUCATION LOCAL PLAN AREA



PROCEDURAL GUIDELINES HANDBOOK

Revised Fall 2014

INTRODUCTION

Students who are eligible to receive special education are guaranteed a free and appropriate public education (FAPE). Federal, state, and local mandates provide a vast array of requirements that special educators must follow when implementing the programs designed to provide students with FAPE. These mandates are extensive and often confusing.

This handbook is to provide a user-friendly resource manual for special educators and administrators that will guide them through the procedures for identification, referral, assessment, IEP development, and program placement of students in special education and related services. The handbook also outlines the policies, procedures, and local agreements that have been developed to assist in the provision of equitable and consistent program operation throughout the SELPA. And finally, the handbook contains a wealth of valuable resources available to all those who work diligently to serve students with disabilities and their families.

When applicable, legal citations are provided. Citations inserted at the end of a sentence refer specifically to that sentence. Citations found following a paragraph or section relate generally to that paragraph or section. The legal citations refer to various sources:

- California Code of Regulations (C.C.R.; Title V regulations are cited as 5 C.C.R.)
- California Education Code (E.C.)
- Code of Federal Regulations (C.F.F.)
- Office of Civil Rights (OCR)

The handbook is reviewed annually and updated as needed. If questions arise that are not answered in this handbook, please contact your special education administrator for assistance. The SELPA administrator is also available for questions. Contact information can be found on the SELPA webpage at <http://www.nscselpa.org/>

SELPA-approved and required forms for developing the *Individualized Education Program* (IEP), *Individual Family Service Plan* (IFSP), and *Individual Services Plan* (ISP) are integrated into the web-based software and/or are available on the SELPA webpage.

A special thanks to all the North Santa Cruz County SELPA's local education agency's special education directors for their contributions, as well as other SELPA's throughout the State of California for sharing their procedural handbooks.

The Role of the SELPA

Special Education Local Plan Areas (SELPAs) were created by the state legislation to assist in assuring that districts and county offices of education provide a full continuum of programs and services to students with disabilities and that these programs and services are provided according to all legal mandates. Every district and county office of education belongs to a SELPA. The districts and county offices of education that belong to each SELPA are referred to as local education agencies (LEAs). North Santa Cruz County SELPA (NSCC) is a multiple-district SELPA. The NSCC SELPA is comprised of the thirteen local education agencies (LEAs) of North Santa Cruz County including the ten school districts, two charter school LEAs and the Santa Cruz County Office of Education (SCCOE). Each SELPA has an administrator and must have an assigned Administrative Unit (AU). The purpose of the AU is to provide support to the SELPA in areas such as office facilities, personnel services, and fiscal management. The AU can be assigned to any of the LEAs within the SELPA. The SELPA, however, is a separate organization from the LEA that is selected to act as the SELPA's AU. In the North Santa Cruz County SELPA, the Santa Cruz County Office of Education has been selected as the AU.

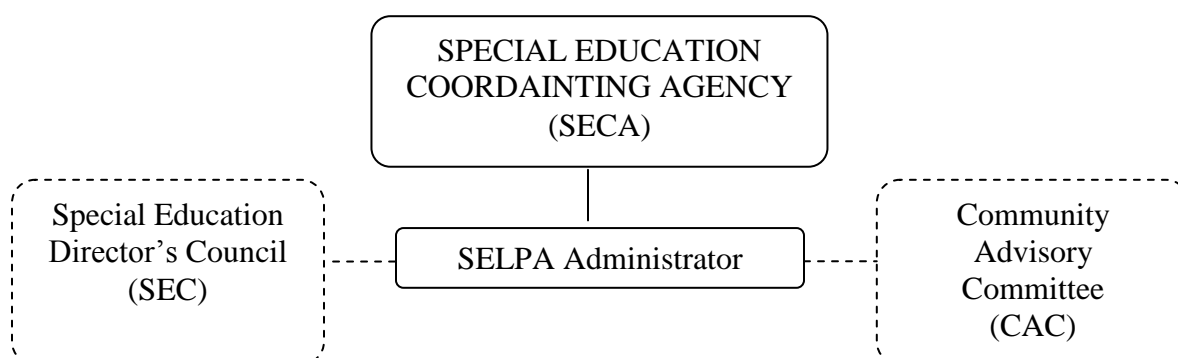
Confusion is often expressed about the differing roles of the federal and state governments, the SELPA, and the LEAs. The charts on the next few pages are provided to assist in defining and differentiating the roles of each of those agencies, outlining the governance structure of the SELPA (see the local plan for more detailed information), and suggesting whom to call for help with specific types of issues.

Agency Responsibilities in Providing Special Education

Federal/State Governments	SELPAs	LEAs
<ul style="list-style-type: none"> • Enact legislation governing the provision of special education • Determine the level of funding that will be provided • Distribute funding to each SELPA • Develop and implement systems for holding SELPAs and LEAs accountable for provision of appropriate special education programs 	<ul style="list-style-type: none"> • Develop and maintain the local plan that designates the Administrative Unit, the SELPA governance structure, and identifies the systems, policies, and procedures that will be used to support the LEAs in meeting their legal requirements for providing special education programs and services • Develop and maintain policies and inter-agency agreements necessary for implementing the local plan • Ensure that appropriate programs/services are available for all children with disabilities within the SELPA • Receive funding from federal and state sources and distributes to LEAs • Facilitate completion of program reviews and evaluations • Provide LEAs with consultation and support, as needed • Provide appropriate staff development activities 	<p><i>School Districts</i></p> <ul style="list-style-type: none"> • Engage in child-find activities for eligible students within the district • Develop and operate district special education programs and services • Hire and supervise special education teachers and specialists for district-operated programs • Develop and implement an appropriate budget to support district special education programs • Provide special education transportation as needed • Respond to compliance and due process complaints • Participate in program reviews and evaluations • Enter into inter-agency agreements with the COE or other regional special education program, as needed <p><i>COE/Regional Programs</i> Conduct all activities described above for programs operated by the COE on behalf of all districts within the SELPA</p>

SELPA Governance Structure

The following organization chart illustrates the SELPA governance structure:



Special Education Coordinating Agency (SECA)

The SELPA governance council, SECA, consists of the superintendent/chief administrative officers of each of the participating LEAs, each of whom provide a liaison function between the LEA governing board and SECA. LEA superintendents/chief administrators exercise their authority and responsibilities in accordance with policies and procedures of their local governing boards and within the voting procedures of the Special Education Coordinating Agency Joint Powers Agreement.

Special Education Director's Council (SEC)

The SEC is an advisory body to the SELPA administrator and the Special Education Coordinating Agency. The SEC consists of the special education administrator from each of the participating member districts and the Santa Cruz County Office of Education. The LEA special education administrators are responsible as individuals for the operation of their Local Education Agency programs to ensure that all eligible students with disabilities receive appropriate services. SEC provides input and recommendations regarding the local plan, the funding allocation model, the development of inter-agency agreements, policies, forms, and procedures.

Community Advisory Committee (CAC)

The CAC serves the Special Education Local Plan Area and the Special Education Coordinating Agency in an advisory capacity, in accordance with Education Code 56190-56194. CAC reviews and provides input into the development of the local plan, recommends annual priorities to be addressed by the SELPA, and assists in parent education and awareness. The CAC includes parents, students, special education and general education staff members, and community members appointed by LEA governing boards. The majority of members are parents of children with disabilities.

TABLE OF CONTENTS

- Chapter 1 IDENTIFICATION, REFERRAL, AND ASSESSMENT
- Chapter 2 EARLY CHILDHOOD ASSESSMENT
- Chapter 3 IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS
- Chapter 4 PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS
- Chapter 5 PUPIL RECORDS
- Chapter 6 SPECIAL EDUCATION ELIGIBILITY CRITERIA AND IEP PLANNING GUIDELINES
- Chapter 7 INDIVIDUALIZED EDUCATION PROGRAMS (IEP) AND SPECIAL EDUCATION PROGRAMS & RELATED SERVICES
- Chapter 8 SECONDARY TRANSITION
- Chapter 9 SUSPENSION AND EXPULSION
- Chapter 10 REFERRAL PROCEDURES FOR SANTA CRUZ COUNTY OFFICE OF EDUCATION SPECIAL EDUCATION PROGRAMS
- Chapter 11 NON-PUBLIC SCHOOL PLACEMENT
- Chapter 12 SURROGATE PARENTS
- Chapter 13 LOW INCIDENCE FUNDING GUIDELINES
- Chapter 14 RESOURCES
- Chapter 15 NORTH SANTA CRUZ COUNTY SELPA POLICIES

IDENTIFICATION, REFERRAL, AND ASSESSMENT

1.1	PURPOSE AND SCOPE	1-1
1.2	IDENTIFICATION	1-1
1.2. A.	CHILD FIND	1-1
1.2. B.	STUDENT STUDY TEAM	1-2
1.3	REFERRAL PROCESS	1-2
1.3. A.	SOURCE OF REFERRALS	1-2
1.3. B.	REFERRAL PROCEDURE	1-3
1.3. C.	INAPPROPRIATE REFERRALS	1-3
1.4	PARENTAL CONSENT	1-4
1.4. A.	REQUEST FOR INITIAL EVALUATION	1-4
1.4. B.	PARENTAL CONSENT FOR INITIAL EVALUATION	1-4
1.5	ASSESSMENT PROCESS	1-5
1.5. A.	INITIAL ASSESSMENTS	1-5
1.5. B.	ASSESSMENT PLAN	1-6
1.5. C.	ASSESSMENT REQUIREMENTS	1-8
1.5. D.	ASSESSMENT OF AFRICAN-AMERICAN CHILDREN UNDER LARRY P DECISION	1-9
1.5. E.	ASSESSMENT REPORT	1-9
1.6	REASSESSMENTS	1-10
1.6. A.	THREE YEAR REASSESSMENTS	1-10
1.6. B.	STATE AND FEDERAL MANDATED BEHAVIORAL ASSESSMENT	1-11
	FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA)	1-11
APPENDIX A	60-DAY TIMELINE CHART	1-13
APPENDIX B	SPECIAL ED PROCESS FLOW CHART & 60 DAY TIMELINE	1-20

IDENTIFICATION, REFERRAL AND ASSESSMENT

1.1 PURPOSE AND SCOPE

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

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

1.2 IDENTIFICATION

1.2. A. Child Find

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

Child Find activities may include but not be limited to:

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

9. Presentations to local professional groups and organizations established to form and/or to serve culturally diverse populations;
10. Coordination with activities of the SELPA Community Advisory Committee (CAC); and,
11. Coordination with school site procedures, including referrals from the school site student intervention teams (e.g. Student Study Teams, etc.).(EC 56300, 56301, 52040; CFR 300.451)

1.2. B. Student Study Team (SST)

The Student Study Team (SST) is a regular education function. It is a process of reviewing individual student issues pertaining to educational performance and planning instructional interventions to be implemented in the regular classroom.

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

A special education referral may be appropriate after interventions have been implemented. As a regular education function, the team also helps with mainstreaming strategies for those students who are already receiving special education and related services.

A student suspected of having a disability under the provisions of Section 504 of the Rehabilitation Act of 1973, will be assessed by a process defined through local board policies and procedures.

1.3 REFERRAL PROCESS

1.3. A. Source of Referrals

Referrals for assessment to determine eligibility for special education and related services may come from teachers, parents, agencies, appropriate professional persons, and from other members of the public.

The referrals will be coordinated with school site procedures for referral of students with special needs that cannot be met with modifications of the regular instructional program, including referrals from student intervention teams, such as the Student Study Team.

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

1.3. B. Referral Procedure

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

1.3. C. Inappropriate Referrals

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

1. A description of the action refused by the district;
2. An explanation why the district refuses to take the action;
3. A description of any other options that the district considered and the reasons why those options were rejected;
4. A description of each procedure the district used as a basis for the refused action; and
5. A description of any other factors that is relevant to the district's refusal. (CFR 3001.503)

1.4 PARENTAL CONSENT

The LEA shall conduct an initial evaluation in every area of suspected disability before the initial provision of special education and related services to a child with a disability.

1.4. A. Request for Initial Evaluation

Either a parent of a child or LEA may initiate a request for an initial evaluation to determine if the child is a child with a disability.

1. The initial evaluation shall assess the child in all areas of suspected disability to determine whether the child is a child with a disability. The assessment and IEP team meeting must be held within 60 calendar days of receiving parental consent for the evaluation.
2. Exception: The relevant timeframe shall not apply to a LEA if:
 - a. A child enrolls in a school served by the LEA after the relevant timeframe has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability but only if the subsequent LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parent and the subsequent LEA agree to a specific time when the evaluation will be completed; or
 - b. The parent of a child repeatedly fails or refuses to produce the child for the evaluation.

1.4. B. Parental Consent for Initial Evaluation

1. The LEA proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability shall obtain informed consent from the parent of a child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.
2. Consent for Services: The LEA is responsible for making a free appropriate public education (FAPE) available to a child with a disability and shall seek to obtain informed consent from the parent of a child before providing special education and related services to the child.

Absence of Consent for Initial Evaluation: If the parent of a child does not provide consent for an initial evaluation or the parent fails to respond to a request to provide the consent; the LEA may pursue the initial evaluation through due process.

Absence of Consent for Initial Services: If the parent of a child does not provide consent to the initial provision of services, the LEA shall **not** provide special education and related to the child by using due process.

Effect on LEA Obligation: If the parent of a child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent:

- a. The LEA shall not be considered to be in violation of the requirement to make a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the LEA requests such consent; and
 - b. The LEA shall not be required to develop an IEP for the special education and related services for which the LEA requests such consent.
6. If the child is a ward of the State and not residing with the child's parent, the LEA shall make reasonable efforts to obtain such consent from the parent of the child for the initial evaluation to determine whether the child is a child with a disability. (30 EC 56346)

1.5 ASSESSMENT PROCESS

1.5.A. Initial Assessments

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

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

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each LEA's school calendar. In the case of school vacations, the 60-day timeline shall recommence on the date that student schooldays reconvene. A meeting to develop an IEP for a student shall be conducted within **30 days** of a determination that the student needs special education and related services. (Section 300.323(c) (1) of Title 34 of the Code of Federal Regulations)

The *60 day time period* does not apply if either of the following occurs:

1. The student enrolls in a school served by the LEA after the relevant time period has commenced but prior to determination by his or her previous LEA of whether the student has a disability. This exemption applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the assessment, and the parent and subsequent LEA agree to a specific date by which the assessment shall be completed.

2. The parent of a child repeatedly fails or refuses to produce the child for an assessment.
3. The results of the assessment will be used by the child's IEP team to develop an appropriate Individualized Education Program (IEP).

1.5. B. Assessment Plan

After a review of the referral, pupil records and/or other immediately available material, the assessment team will meet to develop a proposed assessment plan.

A *proposed assessment plan* shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the student's regular school sessions or terms or calendar days of school vacation in excess of five school days from the receipt of the referral, unless the parent or guardian agrees, in writing, to an extension.

In any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year when the referral has been made 20 days or less prior to the end of the regular school year. In the case of student's school vacations, the 15-day time shall recommence on the date that the regular school days reconvene.

The *proposed assessment plan* given to the parents or guardians shall meet all the following requirements:

1. Be in language easily understood by the general public
2. Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do so is not clearly 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. The LEA shall not be required to obtain informed consent from the parent of a child for an initial assessment to determine whether the child is an individual with exceptional needs under any of the following circumstances:
 - a. Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child.
 - b. The rights of the parent have been terminated in accordance with state law.
 - c. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for initial assessment has been given by an individual appointed by the judge to represent the child.

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

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

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

Included with the assessment plan will be a copy of Parents' Rights and Procedural Safeguards. The parents will be informed that they have a right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, if the parent disagrees with an assessment obtained by the district.

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

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

Personal contact with the parents to explain the process and forms is strongly recommended.

If a parent refuses to sign permission for an assessment, the school district may file for mediation/due process hearing. If the district prevails in a due process hearing, the assessment can be conducted without parent consent. (EC 56321, 5 CCR 3022)

1.5. C. Assessment Requirements

Tests and other assessment materials must meet all of the following requirements:

1. Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless is not feasible to provide or administer.
2. Are used for purposes for which the assessments or measures are valid and reliable.
3. Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.
4. 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.
5. Tests are selected and administered to best ensure that when a test is 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 that the test purports to measure.
6. No single measure or assessment is used as a sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.
7. The pupil is assessed in all areas of the suspected disability including, if appropriate, health and development, vision, including low vision, hear, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, social and emotional status. A developmental history shall be obtained when appropriate. For pupils with residual vision, a low vision assessment shall be provided.
8. The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment.

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

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

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

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

1.5. E. Assessment Report

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

1. Whether the child may need special education and related services.
2. The basis for making the determination.
3. The relevant behavior noted during the observation of the child in an appropriate setting.
4. The relationship of that behavior to the child's academic and social functioning.
5. The educationally relevant health and development, and medical findings, if any.
6. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.

7. The need for specialized services, materials, and equipment for pupils with low incidence disabilities.

If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the assessment report. (EC 56327)

1.6 REASSESSMENTS

A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the LEA agree otherwise in writing, and shall occur at least once every three years, unless the parent and the LEA agree in writing, that a reassessment is unnecessary. (30 EC 56381)

Reassessment may also be conducted whenever conditions warrant a reassessment including the following:

1. If a parent or teacher requests a reevaluation;
2. When a preschool child with a disability transitions to kindergarten or first grade; or
3. Before determining a child is no longer eligible for special education.

1.6. A. Three Year Reassessments

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

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

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

4. Whether the pupil continues to have a disability;
5. The present levels of performance and educational needs of the pupil;
6. Whether the pupil continues to need special education and related services; and,

7. Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the IEP of the child and to participate as appropriate in the general curriculum.

If the team determines that additional tests or other evaluation material is needed to provide the necessary data identified above, the district will administer tests and other assessment materials as may be needed.

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

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

1.6. B. State and Federally Mandated Behavioral Assessment Functional Behavior Assessment ("FBA")

The term Functional Behavior Assessment (FBA) was first added to the IDEA in 1997 but was not defined. An FBA is generally understood to be a systematic observation of a student to determine antecedents and consequences of a behavior. An FBA is not required prior to the development and implementation of an informal behavior plan.

An FBA must be conducted when school authorities seek to change the placement of a student with a disability because of a violation of a code of student conduct, **and** the IEP Team determines that the conduct was a manifestation of the student's disability, **and** the LEA has not conducted an FBA prior to such determination before the behavior that resulted in the change of placement (i.e., possible expulsion or suspensions beyond 10 days in a school year) (34 C.C.R. § 300.530(f)(1)).

An FBA must be conducted, as appropriate, in cases of disciplinary removals involving a change in placement in which the IEP Team determines that the conduct **was** not a manifestation of the student's disability.

An FBA should be considered and/or conducted if additional data is needed to develop a BIP or the IEP Team determines it would be appropriate for the student. Parental consent is required before an FBA may be conducted.

Personnel conducting the FBA shall gather information from multiple sources which may include:

1. Direct observation;
2. Interviews with significant others;

3. Review of available data, such as assessment reports prepared by other professionals and other individual records.

To maintain evidence-based alignment, an FBA may include the following:

1. Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
2. Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;
3. Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the student, i.e., to identify the specific environmental or physiological outcomes produced by the behavior, or the communicative intent of the behavior;
4. Identification and analysis of the settings where the behavior(s) occurs;
5. Identification of the function the behavior serves for the student, (i.e.; sensory, escape, attention, social, tangible, etc.);
6. Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider include the physical setting, social setting, activities and nature of instruction, scheduling, quality of communication between the pupil and staff and other students, degree of independence, degree of participation, amount and quality of social interaction, degree of choice, and variety of activities;
7. Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet);
8. Review of the history of the behavior to include the effectiveness of previously used behavior interventions;
9. Identification of one or more replacement behaviors and its current frequency.

APPENDIX A – 60 DAY IEP TIMELINE CHART

APPENDIX B – SPECIAL ED PROCESS FLOW CHART & 60 DAY TIMELINE

Appendix A

TIMELINE CHART

Use this chart to calculate when to complete the evaluation plan (15 Days),
or hold Admin. Placements (30 Days), and IEP's (60 Days).
Find the current date and then appropriate column to the right.

Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date
1-Jan	16-Jan	31-Jan	1-Mar	1-Feb	16-Feb	2-Mar	1-Apr
2-Jan	17-Jan	1-Feb	2-Mar	2-Feb	17-Feb	3-Mar	2-Apr
3-Jan	18-Jan	2-Feb	3-Mar	3-Feb	18-Feb	4-Mar	3-Apr
4-Jan	19-Jan	3-Feb	4-Mar	4-Feb	19-Feb	5-Mar	4-Apr
5-Jan	20-Jan	4-Feb	5-Mar	5-Feb	20-Feb	6-Mar	5-Apr
6-Jan	21-Jan	5-Feb	6-Mar	6-Feb	21-Feb	7-Mar	6-Apr
7-Jan	22-Jan	6-Feb	7-Mar	7-Feb	22-Feb	8-Mar	7-Apr
8-Jan	23-Jan	7-Feb	8-Mar	8-Feb	23-Feb	9-Mar	8-Apr
9-Jan	24-Jan	8-Feb	9-Mar	9-Feb	24-Feb	10-Mar	9-Apr
10-Jan	25-Jan	9-Feb	10-Mar	10-Feb	25-Feb	11-Mar	10-Apr
11-Jan	26-Jan	10-Feb	11-Mar	11-Feb	26-Feb	12-Mar	11-Apr
12-Jan	27-Jan	11-Feb	12-Mar	12-Feb	27-Feb	13-Mar	12-Apr
13-Jan	28-Jan	12-Feb	13-Mar	13-Feb	28-Feb	14-Mar	13-Apr
14-Jan	29-Jan	13-Feb	14-Mar	14-Feb	29-Feb	15-Mar	14-Apr
15-Jan	30-Jan	14-Feb	15-Mar	15-Feb	1-Mar	16-Mar	15-Apr
16-Jan	31-Jan	15-Feb	16-Mar	16-Feb	2-Mar	17-Mar	16-Apr
17-Jan	1-Feb	16-Feb	17-Mar	17-Feb	3-Mar	18-Mar	17-Apr
18-Jan	2-Feb	17-Feb	18-Mar	18-Feb	4-Mar	19-Mar	18-Apr
19-Jan	3-Feb	18-Feb	19-Mar	19-Feb	5-Mar	20-Mar	19-Apr
20-Jan	4-Feb	19-Feb	20-Mar	20-Feb	6-Mar	21-Mar	20-Apr
21-Jan	5-Feb	20-Feb	21-Mar	21-Feb	7-Mar	22-Mar	21-Apr
22-Jan	6-Feb	21-Feb	22-Mar	22-Feb	8-Mar	23-Mar	22-Apr
23-Jan	7-Feb	22-Feb	23-Mar	23-Feb	9-Mar	24-Mar	23-Apr
24-Jan	8-Feb	23-Feb	24-Mar	24-Feb	10-Mar	25-Mar	24-Apr
25-Jan	9-Feb	24-Feb	25-Mar	25-Feb	11-Mar	26-Mar	25-Apr
26-Jan	10-Feb	25-Feb	26-Mar	26-Feb	12-Mar	27-Mar	26-Apr
27-Jan	11-Feb	26-Feb	27-Mar	27-Feb	13-Mar	28-Mar	27-Apr
28-Jan	12-Feb	27-Feb	28-Mar	28-Feb	14-Mar	29-Mar	28-Apr
29-Jan	13-Feb	28-Feb	29-Mar	29-Feb	15-Mar	30-Mar	29-Apr
30-Jan	14-Feb	29-Feb	30-Mar				
31-Jan	15-Feb	1-Mar	31-Mar				

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Find the current date and then appropriate column to the right.

Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date
1-Mar	16-Mar	31-Mar	30-Apr	1-Apr	16-Apr	1-May	31-May
2-Mar	17-Mar	1-Apr	1-May	2-Apr	17-Apr	2-May	1-Jun
3-Mar	18-Mar	2-Apr	2-May	3-Apr	18-Apr	3-May	2-Jun
4-Mar	19-Mar	3-Apr	3-May	4-Apr	19-Apr	4-May	3-Jun
5-Mar	20-Mar	4-Apr	4-May	5-Apr	20-Apr	5-May	4-Jun
6-Mar	21-Mar	5-Apr	5-May	6-Apr	21-Apr	6-May	5-Jun
7-Mar	22-Mar	6-Apr	6-May	7-Apr	22-Apr	7-May	6-Jun
8-Mar	23-Mar	7-Apr	7-May	8-Apr	23-Apr	8-May	7-Jun
9-Mar	24-Mar	8-Apr	8-May	9-Apr	24-Apr	9-May	8-Jun
10-Mar	25-Mar	9-Apr	9-May	10-Apr	25-Apr	10-May	9-Jun
11-Mar	26-Mar	10-Apr	10-May	11-Apr	26-Apr	11-May	10-Jun
12-Mar	27-Mar	11-Apr	11-May	12-Apr	27-Apr	12-May	11-Jun
13-Mar	28-Mar	12-Apr	12-May	13-Apr	28-Apr	13-May	12-Jun
14-Mar	29-Mar	13-Apr	13-May	14-Apr	29-Apr	14-May	13-Jun
15-Mar	30-Mar	14-Apr	14-May	15-Apr	30-Apr	15-May	14-Jun
16-Mar	31-Mar	15-Apr	15-May	16-Apr	1-May	16-May	15-Jun
17-Mar	1-Apr	16-Apr	16-May	17-Apr	2-May	17-May	16-Jun
18-Mar	2-Apr	17-Apr	17-May	18-Apr	3-May	18-May	17-Jun
19-Mar	3-Apr	18-Apr	18-May	19-Apr	4-May	19-May	18-Jun
20-Mar	4-Apr	19-Apr	19-May	20-Apr	5-May	20-May	19-Jun
21-Mar	5-Apr	20-Apr	20-May	21-Apr	6-May	21-May	20-Jun
22-Mar	6-Apr	21-Apr	21-May	22-Apr	7-May	22-May	21-Jun
23-Mar	7-Apr	22-Apr	22-May	23-Apr	8-May	23-May	22-Jun
24-Mar	8-Apr	23-Apr	23-May	24-Apr	9-May	24-May	23-Jun
25-Mar	9-Apr	24-Apr	24-May	25-Apr	10-May	25-May	24-Jun
26-Mar	10-Apr	25-Apr	25-May	26-Apr	11-May	26-May	25-Jun
27-Mar	11-Apr	26-Apr	26-May	27-Apr	12-May	27-May	26-Jun
28-Mar	12-Apr	27-Apr	27-May	28-Apr	13-May	28-May	27-Jun
29-Mar	13-Apr	28-Apr	28-May	29-Apr	14-May	29-May	28-Jun
30-Mar	14-Apr	29-Apr	29-May	30-Apr	15-May	30-May	29-Jun
31-Mar	15-Apr	30-Apr	30-May				

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Find the current date and then appropriate column to the right.

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1-May	16-May	31-May	30-Jun	1-Jun	16-Jun	1-Jul	31-Jul
2-May	17-May	1-Jun	1-Jul	2-Jun	17-Jun	2-Jul	1-Aug
3-May	18-May	2-Jun	2-Jul	3-Jun	18-Jun	3-Jul	2-Aug
4-May	19-May	3-Jun	3-Jul	4-Jun	19-Jun	4-Jul	3-Aug
5-May	20-May	4-Jun	4-Jul	5-Jun	20-Jun	5-Jul	4-Aug
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8-May	23-May	7-Jun	7-Jul	8-Jun	23-Jun	8-Jul	7-Aug
9-May	24-May	8-Jun	8-Jul	9-Jun	24-Jun	9-Jul	8-Aug
10-May	25-May	9-Jun	9-Jul	10-Jun	25-Jun	10-Jul	9-Aug
11-May	26-May	10-Jun	10-Jul	11-Jun	26-Jun	11-Jul	10-Aug
12-May	27-May	11-Jun	11-Jul	12-Jun	27-Jun	12-Jul	11-Aug
13-May	28-May	12-Jun	12-Jul	13-Jun	28-Jun	13-Jul	12-Aug
14-May	29-May	13-Jun	13-Jul	14-Jun	29-Jun	14-Jul	13-Aug
15-May	30-May	14-Jun	14-Jul	15-Jun	30-Jun	15-Jul	14-Aug
16-May	31-May	15-Jun	15-Jul	16-Jun	1-Jul	16-Jul	15-Aug
17-May	1-Jun	16-Jun	16-Jul	17-Jun	2-Jul	17-Jul	16-Aug
18-May	2-Jun	17-Jun	17-Jul	18-Jun	3-Jul	18-Jul	17-Aug
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23-May	7-Jun	22-Jun	22-Jul	23-Jun	8-Jul	23-Jul	22-Aug
24-May	8-Jun	23-Jun	23-Jul	24-Jun	9-Jul	24-Jul	23-Aug
25-May	9-Jun	24-Jun	24-Jul	25-Jun	10-Jul	25-Jul	24-Aug
26-May	10-Jun	25-Jun	25-Jul	26-Jun	11-Jul	26-Jul	25-Aug
27-May	11-Jun	26-Jun	26-Jul	27-Jun	12-Jul	27-Jul	26-Aug
28-May	12-Jun	27-Jun	27-Jul	28-Jun	13-Jul	28-Jul	27-Aug
29-May	13-Jun	28-Jun	28-Jul	29-Jun	14-Jul	29-Jul	28-Aug
30-May	14-Jun	29-Jun	29-Jul	30-Jun	15-Jul	30-Jul	29-Aug
31-May	15-Jun	30-Jun	30-Jul				

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Find the current date and then appropriate column to the right.

Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date
1-Jul	16-Jul	31-Jul	30-Aug	1-Aug	16-Aug	31-Aug	30-Sep
2-Jul	17-Jul	1-Aug	31-Aug	2-Aug	17-Aug	1-Sep	1-Oct
3-Jul	18-Jul	2-Aug	1-Sep	3-Aug	18-Aug	2-Sep	2-Oct
4-Jul	19-Jul	3-Aug	2-Sep	4-Aug	19-Aug	3-Sep	3-Oct
5-Jul	20-Jul	4-Aug	3-Sep	5-Aug	20-Aug	4-Sep	4-Oct
6-Jul	21-Jul	5-Aug	4-Sep	6-Aug	21-Aug	5-Sep	5-Oct
7-Jul	22-Jul	6-Aug	5-Sep	7-Aug	22-Aug	6-Sep	6-Oct
8-Jul	23-Jul	7-Aug	6-Sep	8-Aug	23-Aug	7-Sep	7-Oct
9-Jul	24-Jul	8-Aug	7-Sep	9-Aug	24-Aug	8-Sep	8-Oct
10-Jul	25-Jul	9-Aug	8-Sep	10-Aug	25-Aug	9-Sep	9-Oct
11-Jul	26-Jul	10-Aug	9-Sep	11-Aug	26-Aug	10-Sep	10-Oct
12-Jul	27-Jul	11-Aug	10-Sep	12-Aug	27-Aug	11-Sep	11-Oct
13-Jul	28-Jul	12-Aug	11-Sep	13-Aug	28-Aug	12-Sep	12-Oct
14-Jul	29-Jul	13-Aug	12-Sep	14-Aug	29-Aug	13-Sep	13-Oct
15-Jul	30-Jul	14-Aug	13-Sep	15-Aug	30-Aug	14-Sep	14-Oct
16-Jul	31-Jul	15-Aug	14-Sep	16-Aug	31-Aug	15-Sep	15-Oct
17-Jul	1-Aug	16-Aug	15-Sep	17-Aug	1-Sep	16-Sep	16-Oct
18-Jul	2-Aug	17-Aug	16-Sep	18-Aug	2-Sep	17-Sep	17-Oct
19-Jul	3-Aug	18-Aug	17-Sep	19-Aug	3-Sep	18-Sep	18-Oct
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25-Jul	9-Aug	24-Aug	23-Sep	25-Aug	9-Sep	24-Sep	24-Oct
26-Jul	10-Aug	25-Aug	24-Sep	26-Aug	10-Sep	25-Sep	25-Oct
27-Jul	11-Aug	26-Aug	25-Sep	27-Aug	11-Sep	26-Sep	26-Oct
28-Jul	12-Aug	27-Aug	26-Sep	28-Aug	12-Sep	27-Sep	27-Oct
29-Jul	13-Aug	28-Aug	27-Sep	29-Aug	13-Sep	28-Sep	28-Oct
30-Jul	14-Aug	29-Aug	28-Sep	30-Aug	14-Sep	29-Sep	29-Oct
31-Jul	15-Aug	30-Aug	29-Sep	31-Aug	15-Sep	30-Sep	30-Oct

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Use this chart to calculate when to complete the evaluation plan (15 Days),
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Find the current date and then appropriate column to the right.

Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date
1-Sep	16-Sep	1-Oct	31-Oct	1-Oct	16-Oct	31-Oct	30-Nov
2-Sep	17-Sep	2-Oct	1-Nov	2-Oct	17-Oct	1-Nov	1-Dec
3-Sep	18-Sep	3-Oct	2-Nov	3-Oct	18-Oct	2-Nov	2-Dec
4-Sep	19-Sep	4-Oct	3-Nov	4-Oct	19-Oct	3-Nov	3-Dec
5-Sep	20-Sep	5-Oct	4-Nov	5-Oct	20-Oct	4-Nov	4-Dec
6-Sep	21-Sep	6-Oct	5-Nov	6-Oct	21-Oct	5-Nov	5-Dec
7-Sep	22-Sep	7-Oct	6-Nov	7-Oct	22-Oct	6-Nov	6-Dec
8-Sep	23-Sep	8-Oct	7-Nov	8-Oct	23-Oct	7-Nov	7-Dec
9-Sep	24-Sep	9-Oct	8-Nov	9-Oct	24-Oct	8-Nov	8-Dec
10-Sep	25-Sep	10-Oct	9-Nov	10-Oct	25-Oct	9-Nov	9-Dec
11-Sep	26-Sep	11-Oct	10-Nov	11-Oct	26-Oct	10-Nov	10-Dec
12-Sep	27-Sep	12-Oct	11-Nov	12-Oct	27-Oct	11-Nov	11-Dec
13-Sep	28-Sep	13-Oct	12-Nov	13-Oct	28-Oct	12-Nov	12-Dec
14-Sep	29-Sep	14-Oct	13-Nov	14-Oct	29-Oct	13-Nov	13-Dec
15-Sep	30-Sep	15-Oct	14-Nov	15-Oct	30-Oct	14-Nov	14-Dec
16-Sep	1-Oct	16-Oct	15-Nov	16-Oct	31-Oct	15-Nov	15-Dec
17-Sep	2-Oct	17-Oct	16-Nov	17-Oct	1-Nov	16-Nov	16-Dec
18-Sep	3-Oct	18-Oct	17-Nov	18-Oct	2-Nov	17-Nov	17-Dec
19-Sep	4-Oct	19-Oct	18-Nov	19-Oct	3-Nov	18-Nov	18-Dec
20-Sep	5-Oct	20-Oct	19-Nov	20-Oct	4-Nov	19-Nov	19-Dec
21-Sep	6-Oct	21-Oct	20-Nov	21-Oct	5-Nov	20-Nov	20-Dec
22-Sep	7-Oct	22-Oct	21-Nov	22-Oct	6-Nov	21-Nov	21-Dec
23-Sep	8-Oct	23-Oct	22-Nov	23-Oct	7-Nov	22-Nov	22-Dec
24-Sep	9-Oct	24-Oct	23-Nov	24-Oct	8-Nov	23-Nov	23-Dec
25-Sep	10-Oct	25-Oct	24-Nov	25-Oct	9-Nov	24-Nov	24-Dec
26-Sep	11-Oct	26-Oct	25-Nov	26-Oct	10-Nov	25-Nov	25-Dec
27-Sep	12-Oct	27-Oct	26-Nov	27-Oct	11-Nov	26-Nov	26-Dec
28-Sep	13-Oct	28-Oct	27-Nov	28-Oct	12-Nov	27-Nov	27-Dec
29-Sep	14-Oct	29-Oct	28-Nov	29-Oct	13-Nov	28-Nov	28-Dec
30-Sep	15-Oct	30-Oct	29-Nov	30-Oct	14-Nov	29-Nov	29-Dec
				31-Oct	15-Nov	30-Nov	30-Dec

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Find the current date and then appropriate column to the right.

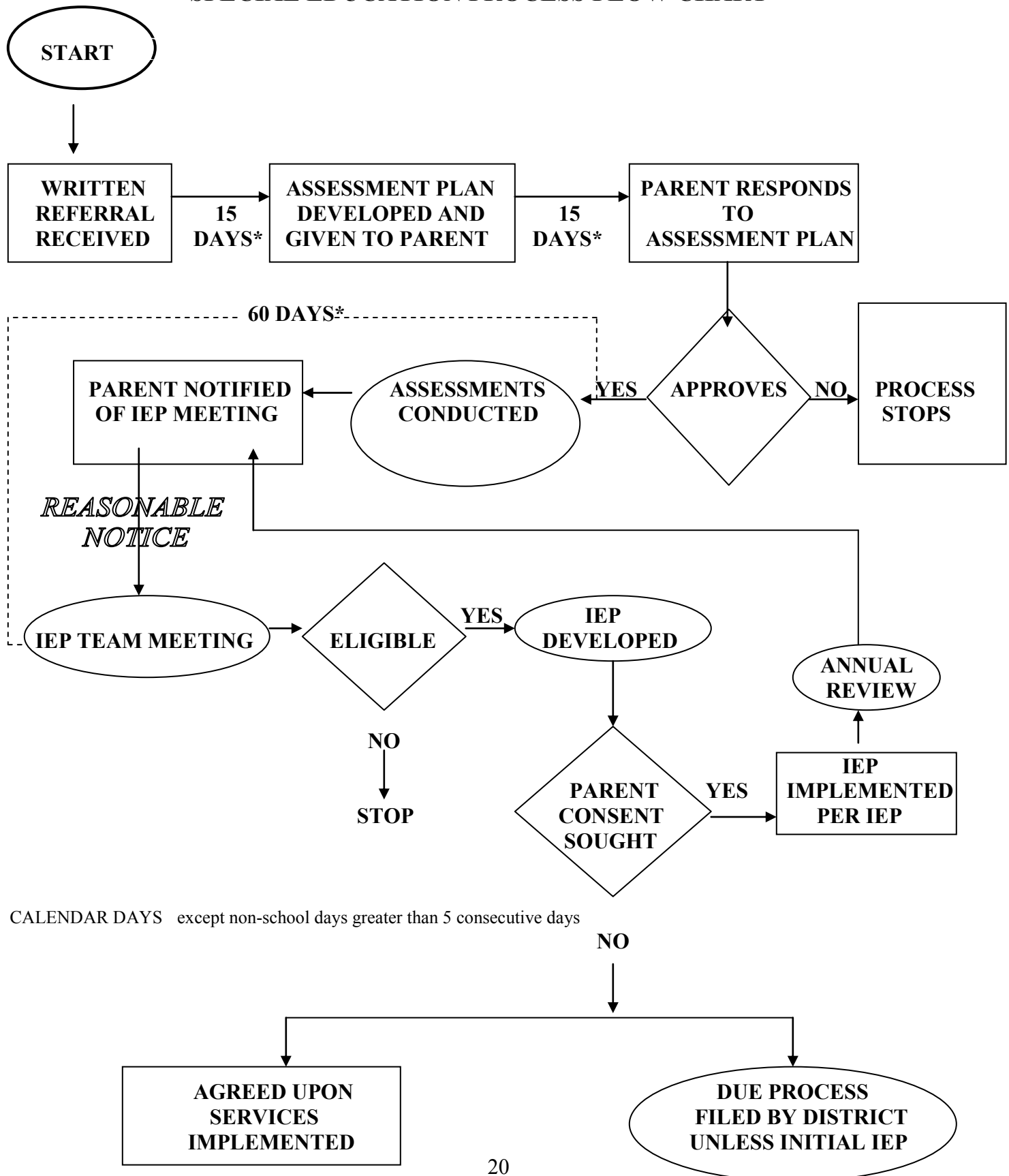
Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date
1-Nov	16-Nov	1-Dec	31-Dec	1-Dec	16-Dec	31-Dec	30-Jan
2-Nov	17-Nov	2-Dec	1-Jan	2-Dec	17-Dec	1-Jan	31-Jan
3-Nov	18-Nov	3-Dec	2-Jan	3-Dec	18-Dec	2-Jan	1-Feb
4-Nov	19-Nov	4-Dec	3-Jan	4-Dec	19-Dec	3-Jan	2-Feb
5-Nov	20-Nov	5-Dec	4-Jan	5-Dec	20-Dec	4-Jan	3-Feb
6-Nov	21-Nov	6-Dec	5-Jan	6-Dec	21-Dec	5-Jan	4-Feb
7-Nov	22-Nov	7-Dec	6-Jan	7-Dec	22-Dec	6-Jan	5-Feb
8-Nov	23-Nov	8-Dec	7-Jan	8-Dec	23-Dec	7-Jan	6-Feb
9-Nov	24-Nov	9-Dec	8-Jan	9-Dec	24-Dec	8-Jan	7-Feb
10-Nov	25-Nov	10-Dec	9-Jan	10-Dec	25-Dec	9-Jan	8-Feb
11-Nov	26-Nov	11-Dec	10-Jan	11-Dec	26-Dec	10-Jan	9-Feb
12-Nov	27-Nov	12-Dec	11-Jan	12-Dec	27-Dec	11-Jan	10-Feb
13-Nov	28-Nov	13-Dec	12-Jan	13-Dec	28-Dec	12-Jan	11-Feb
14-Nov	29-Nov	14-Dec	13-Jan	14-Dec	29-Dec	13-Jan	12-Feb
15-Nov	30-Nov	15-Dec	14-Jan	15-Dec	30-Dec	14-Jan	13-Feb
16-Nov	1-Dec	16-Dec	15-Jan	16-Dec	31-Dec	15-Jan	14-Feb
17-Nov	2-Dec	17-Dec	16-Jan	17-Dec	1-Jan	16-Jan	15-Feb
18-Nov	3-Dec	18-Dec	17-Jan	18-Dec	2-Jan	17-Jan	16-Feb
19-Nov	4-Dec	19-Dec	18-Jan	19-Dec	3-Jan	18-Jan	17-Feb
20-Nov	5-Dec	20-Dec	19-Jan	20-Dec	4-Jan	19-Jan	18-Feb
21-Nov	6-Dec	21-Dec	20-Jan	21-Dec	5-Jan	20-Jan	19-Feb
22-Nov	7-Dec	22-Dec	21-Jan	22-Dec	6-Jan	21-Jan	20-Feb
23-Nov	8-Dec	23-Dec	22-Jan	23-Dec	7-Jan	22-Jan	21-Feb
24-Nov	9-Dec	24-Dec	23-Jan	24-Dec	8-Jan	23-Jan	22-Feb
25-Nov	10-Dec	25-Dec	24-Jan	25-Dec	9-Jan	24-Jan	23-Feb
26-Nov	11-Dec	26-Dec	25-Jan	26-Dec	10-Jan	25-Jan	24-Feb
27-Nov	12-Dec	27-Dec	26-Jan	27-Dec	11-Jan	26-Jan	25-Feb
28-Nov	13-Dec	28-Dec	27-Jan	28-Dec	12-Jan	27-Jan	26-Feb
29-Nov	14-Dec	29-Dec	28-Jan	29-Dec	13-Jan	28-Jan	27-Feb
30-Nov	15-Dec	30-Dec	29-Jan	30-Dec	14-Jan	29-Jan	28-Feb
				31-Dec	15-Jan	30-Jan	29-Feb

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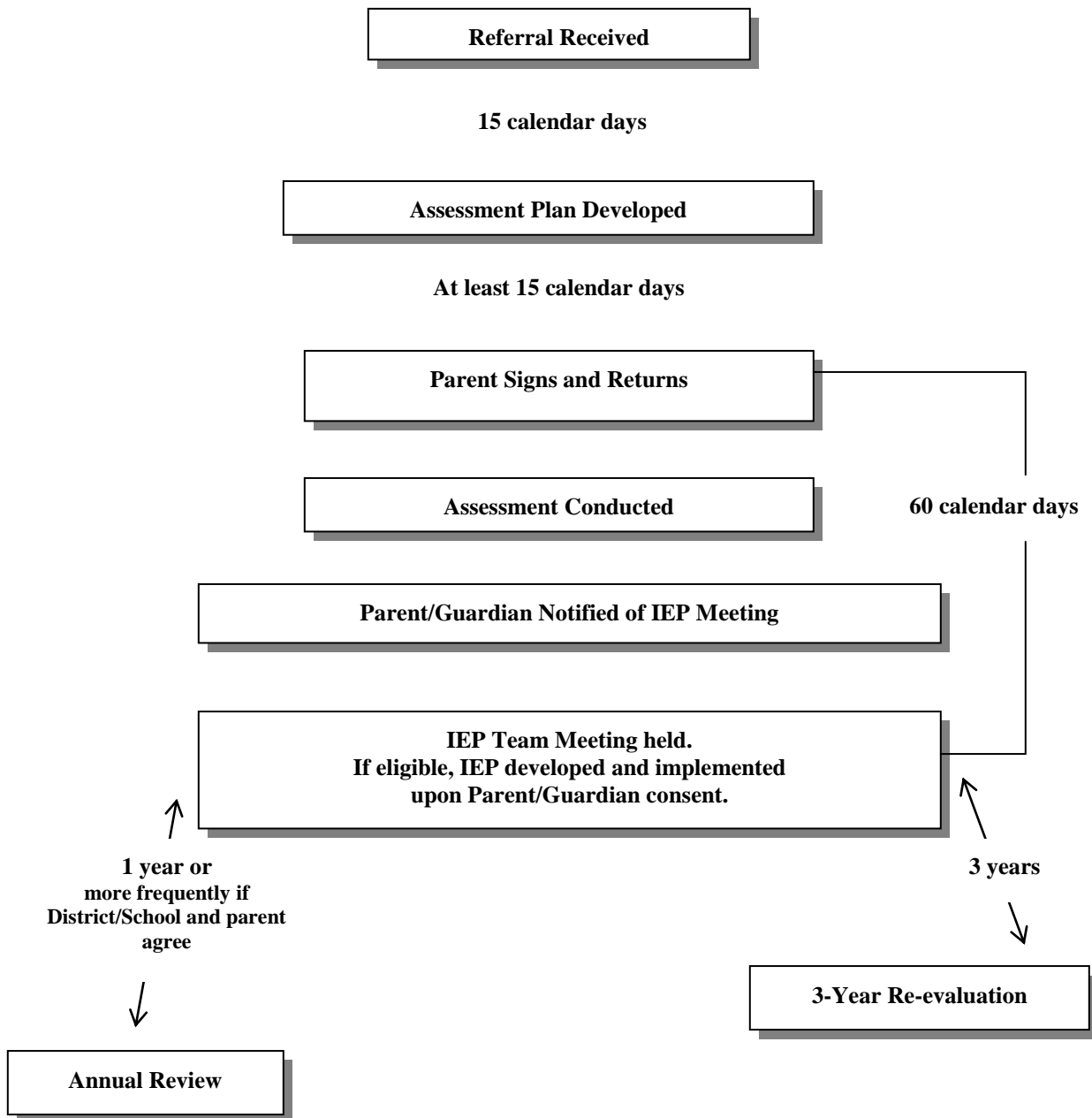
Date	15 Day Date	30 Day Date	60 Day Date	Date	15 Day Date	30 Day Date	60 Day Date

NORTH SANTA CRUZ COUNTY SPECIAL EDUCATION LOCAL PLAN AREA SPECIAL EDUCATION PROCESS FLOW CHART



* * CALENDAR DAYS except non-school days greater than 5 consecutive days

PROCESS FLOW CHART – ANOTHER VIEW



EARLY CHILDHOOD EDUCATION

2.1	PURPOSE AND SCOPE.....	2-1
2.2	IDENTIFICATION & REFERRAL.....	2-1
2.3	EARLY START PROGRAM DESCRIPTION.....	2-2
2.4	ASSESSMENT TO DETERMINE ELIGIBILITY.....	2-3
2.5	ASSESSMENT FOR SERVICE PLANNING.....	2-4
2.6	TIMELINE FOR COMPLETION OF EVALUATION AND ASSESSMENT.....	2-6
2.7	ELIGIBILITY.....	2-6
2.8	DEVELOPMENT OF THE IFSP.....	2-7
	2.8. A. CONTENTS OF THE IFSP.....	2-8
	2.8. B. REVIEW OF THE IFSP.....	2-9
2.9	TRANSITION REQUIREMENTS FOR EARLY INTERVENTION	2-10
2.10	PRESCHOOL CHILDREN (AGE 3-5) WITH DISABILITIES.....	2-11
	2.10. A. IDENTIFICATION & REFERRAL.....	2-11
	2.10. B. EVALUATION & ASSESSMENT.....	2-12
	2.10. C. ELIGIBILITY.....	2-12
	2.10. D. INDIVIDUALIZED EDUCATION PROGRAM	2-13
	2.10. E SERVICES FOR PRESCHOOL CHILDREN WITH DISABILITIES.....	2-14
	2.10. F INSTRUCTIONAL ADULT-TO-CHILD RATIO.....	2-16
	2.10. G. TRANSITION FROM PRESCHOOL TO KINDERGARTEN.....	2-16
	APPENDIX A: TRANSITION PLANNING IFSP CONFERENCE INVITATION.....	2-20
	APPENDIX B: TRANSITION GUIDANCE.....	2-21
	APPENDIX C: PRESCHOOL REFERRAL AND INFORMATION.....	2-22
	APPENDIX D: EARLY START PROGRAM TRANSITION TIMELINE.....	2-23
	APPENDIX E: EARLY START PROGRAM PARENT'S RIGHTS.....	2-24

EARLY CHILDHOOD EDUCATION

2.1 PURPOSE AND SCOPE

The SELPA, Santa Cruz County Office of Education (SCCOE), Local Education Agencies and the San Andreas Regional Center (SARC) will actively and systematically seek out all children with disabilities from birth to age five to refer, assess and determine eligibility for special education services.

An Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP) will be developed by a multidisciplinary team to identify the child's needs and plan appropriate services for the child and the family. LEAs and the COE will work cooperatively with the SARC and other appropriate public agencies to provide all necessary services.

2.2 IDENTIFICATION AND REFERRAL

Child find activities may include:

1. Assigning liaisons to local hospitals and hospitals with neonatal intensive care units;
2. Contacting local parent organizations and support groups;
3. Distributing early intervention materials to agencies and individuals providing medical, social and educational services in the community;
4. Community-wide health and developmental screening;
5. Producing and distributing public service announcements;
6. Producing pamphlets, brochures and other written communication; and,
7. Making presentations to local professional groups, philanthropic organizations and other organizations established to inform and/or to serve culturally diverse populations.

SCCOE, SARC and LEAs shall coordinate local child find activities with each other and other public agencies.

Primary referral sources include, but are not limited to, hospitals, including prenatal and postnatal care facilities, physicians, parents, childcare programs, districts, public health facilities, other social services agencies and other health care providers.

SARC and SCCOE shall inform primary referral sources of the following:

1. Eligibility criteria for early intervention services;
2. Types of early intervention services available through the Early Start Program;
3. Contact persons and telephone numbers for regional centers and districts; and,
4. Federal requirement that a referral shall be made to the regional center or district within two (2) working days of identification of an infant or toddler, who is in need of early intervention services.

The SARC and SCCOE that receives an oral or written referral for early intervention services shall ensure that:

1. The date of the referral is documented in the infant's or toddler's record;
2. A service coordinator is assigned; and,
3. Written notice is provided and consent is requested. (17 CCR 52040, 52060)

2.3 EARLY START PROGRAM DESCRIPTION

The Early Start Program (ESP) is collaboration between the San Andreas Regional Center (SARC) and the Santa Cruz County Office of Education (SCCOE). The ESP, through SCCOE or private infant programs contracted by SARC, shall include services specifically designed to meet the unique needs of infants, from birth to three years of age, and their families. The primary purpose of an early education program is to enhance development of the infant in the context of his or her family. To meet this purpose, the program shall focus upon both the infant *and* his or her family, and may include home visits, group services, family involvement, and/or parent education activities. Services shall be provided in the natural (home, community) environment whenever possible.

Early Start Programs shall include, as program options, home-based services and group services.

Early Start is a year round program, continuous services to meet the needs of the child. IDEA Part C 20 USC 1432 SEC, 632. (4) Early Intervention Services.

Education is payer of last resort for Solely Low Incidence (SLI) and is responsible for providing a year round program (Title 17 Regulations, Section Home-based and group

services will be provided through a transdisciplinary team consisting of the parent and a group of professionals from various disciplines.

The frequency of home-based services shall be weekly, bi-weekly or monthly, depending on the needs of the infant and the family.

Early education services may also be provided through both home visits and group settings with other infants. The frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.

Parent involvement/education activities are provided in conjunction with home based and group services. (EC 56424-56426.2)

2.4 ASSESSMENT TO DETERMINE ELIGIBILITY

Each infant or toddler referred for evaluation for early intervention services shall have a timely, comprehensive, multidisciplinary evaluation of his or her needs and level of functioning in order to determine eligibility.

The determination of eligibility for an infant or toddler shall be made by qualified personnel per *Memo of Understanding* and contract between North Santa Cruz County (NSCC) SELPA and SARC. The determination shall be made with the participation of the multidisciplinary team including the parent. Evaluation and assessment shall be based on informed clinical opinion and include:

1. A review of pertinent records related to the infant or toddler's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.
2. Information obtained from parental observation and report.
3. Evaluation by qualified personnel of the child's level of functioning in each of the following areas:
 - a. cognitive development
 - b. physical and motor development, including vision and hearing
 - c. communication development
 - d. social or emotional development
 - e. adaptive development
4. No single procedure shall be used as the sole criterion for determining a child's eligibility.

5. Standardized tests or instruments may be used as part of the evaluation. If such tests are used they shall be selected to ensure that, when administered to an infant or toddler with impaired sensory, motor or speaking skills, the tests produce results that accurately reflect the infant's or toddler's aptitude, developmental level, or any other factors the test purports to measure. The test should not factor in the infant's or toddler's impaired sensory, motor or speaking skills unless those skills are the factors the test purports to measure. The tests must be validated for the specific purpose for which they are used.
6. Procedures and materials for evaluation and assessment of infants and toddlers shall be selected and administered so as not to be racially or culturally discriminatory.
7. Infants or toddlers with solely low incidence disabilities shall be evaluated and assessed by qualified personnel of the SCCOE whose professional preparation, license or credential authorization are specific to the suspected disability.
8. Regional Centers, LEAs and multidisciplinary teams shall not presume or determine eligibility, including eligibility for medical services provided through the Department of Health Services, for any other state or local government program or service when conducting evaluations or assessments of an infant or toddler or their family. (17 CCR 52082; GC 95016)

2.5 ASSESSMENT FOR SERVICE PLANNING

Assessment for service planning for eligible infants or toddlers shall identify all of the following:

1. The child's unique strengths and needs in each of the above areas.
2. Early intervention and other services appropriate to meet the needs.
3. The resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of an infant or toddler with a disability.

Assessment must be based on a multidisciplinary approach with the involvement of two or more separate disciplines or professions and with respect to:

1. Evaluation of the child; Assessments of the child and family may include one individual who is qualified in more than one discipline or profession;

2. The IFSP Team in §303.340 must include the involvement of the parent, and two or more individuals from separate disciplines or professions, and one of these individuals must be the service coordinator (consistent with §303.343(a)(1)(iv)).

Assessment for service planning shall be based on age appropriate methods and procedures that may include any of the following:

1. A review of information related to the child's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.
2. Developmental observations by qualified personnel and the parent.
3. Other procedures used by qualified personnel to determine the presence of a developmental delay, established risk condition, or high risk for a developmental disability.
4. Standardized tests or instruments.

Assessments of family resources, priorities and concerns related to enhancing the development of the infant or toddler shall be voluntary on the part of the family. The family assessment shall be:

1. Conducted by qualified personnel trained to utilize appropriate methods and procedures;
2. Voluntary on part of each family member participating;
3. Based on information provided by the family through a personal interview and an assessment tool;
4. Incorporate the family's description of its resources, priorities and concerns related to enhancing the development of the child; and
5. Conducted in the language of the family's choice or other mode of communication unless it is not feasible to do so.

Evaluations and assessments for service planning shall be conducted in natural environments whenever possible. (17 CCR 52086)

2.6 TIMELINE FOR COMPLETION OF EVALUATION AND ASSESSMENT

The evaluation and assessment for eligibility for each child shall be completed within 45 days of the date that the SARC or SCCOE received the referral.

IDEA, Part C establishes two circumstances in which 45 day timeline would not apply:
 Child or parent is unavailable due to exceptional family circumstances; or
 Parent has not provided consent despite documented repeated attempts

The LEA is responsible for receiving and acting on referrals 12 months of the year. There is no longer a break in the timelines between terms as was previously allowed by the Education Code.

In the event of exceptional circumstances, which make it impossible to complete the initial evaluation and assessment for eligibility within 45 days of receiving a referral, the service coordinator shall inform the parents and document the reasons for the delay. In such cases, an interim IFSP will be developed and the services agreed upon will be implemented. The interim IFSP will include the name of the service coordinator and timelines for completing assessments. (17 CCR 52086)

2.7 ELIGIBILITY

The term “eligible infant or toddler with a disability” means infants and toddlers from birth through two years of age, for whom a need for early intervention services is documented by means of assessment and evaluation and who meet one of the following criteria:

1. Infants and toddlers with developmental delays, as measured by appropriate diagnostic instruments or procedures 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; or
2. Infants and toddlers who have an established risk condition that must be of known etiology (causation) or with established harmful developmental consequences; certified as having a high probability of resulting in developmental delays; and diagnosed by a “qualified personnel” who is recognized by, or part of, a multidisciplinary team, including parents.

The developmental delay must meet certain thresholds:

If the child is *under* 24 months, the delay must be at least 33% in one developmental area;

If the child is *over* 24 months, the delay must be 50% in one developmental area or 33% in two areas; The age of child at time of initial referral will be the age for consideration

of eligibility if standardized, normed or criterion referenced instruments are used as part of the evaluation, a significant difference between a child's current level of functioning and the expected level of development for his or her age shall be established when the child's age equivalent score falls one third below age expectation. (17 CCR 52022; GC 95014)

2.8 DEVELOPMENT OF THE IFSP

An initial IFSP shall be developed by the SARC and/or SCCOE for each eligible infant or toddler, within 45 days of the receipt, by either the regional center or LEA, of the oral or written referral. A periodic review of the IFSP shall be conducted every six months or more frequently if service needs change, or if the parent requests such a review. All IFSP meetings shall be conducted in settings and at times or by means that are reasonably convenient to the parent and in the language of parent's choice unless it is clearly not feasible to do so.

Meeting arrangements shall be made in collaboration with the parent. A written notice of meeting shall be provided to, the parent and other members of the multidisciplinary team in a timely manner to ensure attendance at the IFSP meeting.

Each initial IFSP meeting and each annual IFSP meeting shall include the following participants:

1. The parent of the infant or toddler;
2. The service coordinator; and,
3. The person(s) who conducted the evaluations or assessments.

If requested by the parent, each initial IFSP meeting and each annual IFSP meeting shall include the following participants:

1. Other family members
2. An advocate or person outside of the family.
3. Each IFSP meeting shall include persons who will be providing services to the infant or toddler and family as appropriate. (17 CCR 52102, 52104)

2.8. A Contents of the IFSP

The IFSP must be in writing and contain:

1. A statement of the infant's or toddler's present levels of development in the following areas:
 - a. physical development,
 - b. cognitive development,
 - c. communication development,
 - d. social or emotional development, and
 - e. adaptive development.
2. A statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability.
3. A statement of the measurable results or outcomes including pre-literacy and language skills, as developmentally appropriate for the child to be achieved, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary.
4. A statement of specific early intervention services based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services.
5. Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and
6. Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).

IFSP Ed. Code Guidelines for Services

Ed. Code 56426.1: Home-based (only) early education services

The frequency of home-based services shall be once or twice a week, depending on the needs of the infant and the family.

Ed. Code 56426.2: Early education services shall be provided through both home visits and group setting with other infants, with or without the parent.

Home-based and group services shall include, but not limited to:

Frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.

The frequency of home visits provided in conjunction with group services shall range from one to eight visits per month

Ed. Code 65426.4.: Family involvement activities

The frequency of family involvement activities shall be at least once a month.

Participation by families in family involvement activities shall be voluntary.

7. A statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.

Natural environments means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of §303.126.

“The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be--

- a. Made by the IFSP Team (which includes the parent and other team members);
- b. Consistent with the provisions in §§ 303.13(a)(8), 303.26, and 303.126; and
- c. Based on the child’s outcomes that are identified ...”

8. The projected dates for initiation of services and the anticipated duration of the services.
9. “With implementation of the Early Start Program, the LEA infant programs were uniformly funded to add an additional 20 days of service to the regular 180-day school year for a total of 200 funded days spread across 12 months, which is considered the year-round program.” (1.20 Early Start Program Evaluation-Final Report)
10. When dually eligible, the service coordinator will be a SARC social worker. If the eligibility is a solely low incidence, the identification of the service coordinator from the profession most immediately relevant to the infant’s or toddler’s family needs (or who is otherwise qualified to carry out all applicable responsibilities), will be responsible for the implementation of the plan and coordination with other agencies and persons.

11. For those children served by both the regional center and LEA, if it is determined that a child requires EI services year around, the regional center should fund services during the school breaks.
12. The steps to be taken to support the transition of the toddler, with a disability, to preschool or other appropriate services.

The responsibilities of the Service Coordinator include:

- the coordination of early intervention services and other services that the child needs or is being provided;
- conducting referral and other activities;
- ensuring the timely provision of services; and
- conducting follow-up activities to determine that appropriate Part C services are being provided.

The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained before early intervention services can be provided. If the parents do not provide consent with respect to a particular early intervention service, then the only early intervention service to which consent is obtained shall be provided. (17 CCR 52106)

2.8. B Review of the IFSP

The IFSP shall be evaluated once a year and the family must be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs). The IFSP team will review the degree to which progress toward achieving the outcome is made and document all modifications and revisions of the outcomes or services as necessary. (17 CCR 52102)

2.9 TRANSITION REQUIREMENTS FOR EARLY INTERVENTION

All children receiving Early Intervention Services are potentially eligible for special education and related services at age three, and therefore must be referred to Part B for assessment to determine eligibility. A referral packet will be sent to the district of residence no later than 90 days prior to the child's third birthday. The child's LEA district of residence has the obligation to evaluate or document through a prior written notice if the child is not anticipated to be eligible and an assessment will not be conducted.

1. LEA district of residence shall provide special education and related services to eligible children at age three. Each LEA shall participate in the transition planning for toddlers served in programs operated under Part C of the Individuals with Disabilities Education Act

(IDEA), who may be eligible for preschool programs under Part B of the IDEA, before the toddler is two years nine months, or at the discretion of all parties up to six months before the child turns three to ensure that an IEP has been developed and is implemented by the toddler's third birthday. (17 C.C.R. §52112(a); 34 C.F.R. § 303.344), E.C. §56426.9(b-c)).

- The service coordinator will provide a Transition Planning IFSP Conference Invitation Form (See Appendix A) to both the toddler's parent(s) and to the LEA in which the toddler resides.
2. The assigned service coordinator, six months before the third birthday of the toddler receiving early intervention services, shall:
- Notify the parent of a toddler who may be eligible for special education and related services under Part B of the IDEA that transition planning will occur within the next one to three months;
 - Inform the LEA where the toddler resides that there will be an IFSP meeting requiring the attendance of an LEA representative, before the toddler is two years nine months, or at the discretion of all parties, up to six months before the toddler turns three years old to specify the transition steps necessary for movement into services under Part B of the IDEA; and
 - Within thirty days following notification of the parent and the LEA, the family, service coordinator, and participating LEA shall agree on the date for the IFSP to specify the transition steps necessary for movement into services under Part B.(E.C. §52112(b)(1-3)). A Notice of Individual Family Service Plan Meeting form will be sent to the toddler's district of residence indicating the date, time and location of the IFSP meeting.

Note: The LEA's special education administrator or designee from the child's district of residence shall attend the transition meeting on the date proposed by SARC or the participating SCCOE provider once confirmed by the family.

3. For all toddlers with an IFSP, the transition steps contained in the IFSP at two years nine months or earlier shall include discussions with and provision of information to parents

regarding:

- The toddler's transition to special education for a toddler with a disability who may be eligible for special education and related services under Part B of the IDEA; and steps to prepare the toddler for changes in service delivery, including steps to help the toddler adjust to, and function in, a new setting;
- Community resources, such as Head Start, Child Development Preschools, private or public preschools for a toddler who will not be eligible for special education services at age three;
- A projected date for conducting a final review of the IFSP to review the early intervention services and the transition outcomes by age three.

(17.C.R. §52112(c) (1-3))

4. For toddlers who may be eligible for preschool services from the LEA under Part B of the IDEA, the transition steps necessary for movement into services under Part B or other appropriate program, written at the IFSP meeting before the toddler is two years nine months, or, at the discretion of all parties, up to six months before the toddler's third birthday, shall include all of the following:

- With parental consent, as indicated on the toddler's Transition Guidance form (See Appendix B), the transition of information about the toddler to the LEA including evaluation and assessment information and copies of IFSPs that have been developed and implemented
- Identification of needed assessments to determine regional center and special education eligibility and determination of regional center or LEA responsibility and time lines for completing the needed assessments
- Statement of the steps necessary to ensure the referral to a district of residence is received by the LEA in a timely manner to ensure that assessments required under the provisions of Part B of the Individuals with Disabilities Education Act are completed and an IEP is implemented by the toddler's third birthday
- A referral for evaluation an assessment for services under Part B of the IDEA, no later than the time that the toddler is two years nine months of age or before the LEA's break in school service if the toddler will become three years of age during a break in school services E.C. §§ 56321 and 56344); and

- Identification of those responsible for convening an IEP team meeting, final exit IFSP meeting, for a toddler by age three to review the progress toward meeting the early intervention services outcomes identified in the IFSP and set a date for the IEP team meeting determine the eligibility for special education and develop the IEP.

Code Section 4646 (17 C.C.R. § 52112(d) (1-5)).

5. If a toddler is older than two years and six months on the date of the initial IFSP, the IFSP shall include steps to ensure transition to Special Education Services under Part B of the IDEA or other services that may be appropriate (17 C.C.R. § 52112(e)).

SARC may not continue providing or purchasing services for a preschooler who has been determined eligible for both SARC (under the Lanterman Developmental Disabilities Services Act) and SCCOE (Part B) services.

A child who becomes three years of age while participating in Part C services may continue until June 30 of the current program year, if the IEP team determines that the child is eligible under Part B, develops an IEP, and determines that Part C services remain appropriate. No later than June 30 of that year, the IEP team shall meet to review the child's progress and revise the IEP accordingly. Representatives of the Part C program shall be invited to that meeting. If the child's third birthday occurs during the summer, the IEP team shall determine the start date for IEP services. (E.C. § 56426.9(d)). IFSP services will stop on the 3rd birthday, and if appropriate, the same services can continue to be funded through the IEP if deemed appropriate.

6. The service coordinator will make the formal referral to the appropriate LEA by the time the child reaches 2.9 years of age or at an earlier date as agreed to by SARC and the LEA. The parent will be informed that the referral will be made to the district, according to parental permission on the Transition Guidance Form (See Appendix B). If the parent does not consent, then they will be informed that only the child's name, date of birth, and parent contact information will be sent to the LEA. If the parent

does consent, then the referral will include all relevant information, including IFSP's and assessments.

- This formal referral will be made no later than 90 days prior to the toddler's third birthday. The service coordinator will notify the LEA through the receipt of the Preschool Referral and Information Form (See Appendix C). This invitation will serve as a formal referral which begins the LEAs 15 day timeline to present parent(s) with an assessment plan to determine eligibility for Part B services, or to present parent(s) with a Prior Written Notice indicating why an assessment will not be conducted.

2.10 PRESCHOOL CHILDREN (AGE THREE TO FIVE) WITH DISABILITIES

2.10. A Identification and Referral

Preschool children age three to five with disabilities will be identified through

1. Child Find activities listed in previous sections.
2. Direct referrals from parents, preschools, physicians, members of the community, and Kindergarten teachers.
3. Children who are in transition from the Early Start Program.

Children who have been participating in the Early Start Program and are eligible to participate in preschool program will experience a smooth transition to preschool programs in the LEA or SCCOE. Representatives of the LEA will participate in all transition planning conferences to ensure a smooth transition.

2.10. B Evaluation and Assessment

Assessment procedures, as described in Chapter 1 are applicable to preschool children from three to five years of age.

The assessments will be conducted by a trans- disciplinary team including early childhood specialists, speech and language pathologists, school psychologist and other professional professionals as appropriate.

The team will use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist in determining whether the child has a disability.

Special attention will be given to:

1. Assessing children with developmentally appropriate assessments.
2. Assessing children in natural environments.
3. Assessing children to identify participation in appropriate preschool activities.
4. Involving preschool personnel in observing and assessing children.

When standardized tests are considered invalid for children between the ages of three and five years, alternative means will be utilized (e.g. scales, instruments, observations, and interviews) shall be used as specified in the *Assessment Plan*. (EC 56441.11, 56441.6, 56426.6)

2.10. C Eligibility

The special education eligibility criteria listed in Chapter 1 shall apply to preschool children, between the ages of three and five years.

1. A preschool child qualifies as a child who needs early childhood special education services if the child meets the following criteria is identified as having one of the following disabling conditions, or an established medical disability:
 - a. autism
 - b. deaf-blindness
 - c. deafness
 - d. hearing impairment
 - e. intellectual disability
 - f. multiple disabilities
 - g. orthopedic impairment
 - h. emotional disturbance
 - i. specific learning disability
 - j. speech or language impairment in one or more of voice, fluency, language and articulation
 - k. traumatic brain injury
 - l. visual impairment
 - m. established medical disability
2. Needs specifically designed instruction or services
3. Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an IEP team.

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

1. Unfamiliarity with the English language;
2. Temporary physical disabilities;
3. Social maladjustment; or,
4. Environmental, cultural, or economic factors.

Established medical disability is defined as a disabling medical condition or congenital syndrome that the IEP team determines has a high predictability of requiring special education and services (EC 56441.11, 56440, 56333-56339; 5 CCR 3030, 3031)

2.10. D Individualized Education Program

The requirements for developing, implementing, and reviewing IEPs described in Chapter 2 are applicable to preschool children, age three to five.

An early education program for preschool children with disabilities shall include specially designed instruction and related services to meet the unique needs of preschool children and their families. To meet this purpose, the program focus is on the young child and his or her family and shall include both individual and small group services, which shall be available in a variety of typical age-appropriate environments for young children, including the home, and shall include opportunities for active parent involvement.

A preschool teacher, who has observed the child in an appropriate preschool environment, will be a member of the IEP team.

The IEPs of preschool children will describe how the disability affects the child's participation in appropriate activities. (EC 56441.2)

2.10. E Services for Preschool Children with Disabilities

Services for preschool children with disabilities and their families shall be provided in coordination with other state and local agencies.

Services will be provided at public expense, under public supervision and without cost to the parents.

Early education services for preschool children may be provided to individuals or small groups and shall include:

1. Observing and monitoring the child's behavior and development in his or her environment.
2. Presenting activities that are developmentally appropriate for the preschool child and are specially designed, based on the child's exceptional needs, to enhance the child's development. Those activities shall be developed to conform to the child's IEP and shall be developed so that they do not conflict with his or her medical needs.
3. Interacting and consulting with the family members, regular preschool teachers, and other service providers, as needed, to demonstrate developmentally appropriate activities necessary to implement the child's IEP in the appropriate setting, and necessary to reinforce the expansion of his or her skills in order to promote the child's educational development. These interactions and consultations may include family involvement activities.
4. Assisting parents to seek and coordinate other services in their community that may be provided to their child by various agencies.
5. Providing opportunities for young children to participate in play and exploration activities, to develop self-esteem, and to develop pre-academic skills.
6. Providing access to various developmentally appropriate equipment and specialized materials.
7. Providing related services that include parent counseling and training to help parents understand the special needs of their children and their children's development.

Appropriate settings for these services include any of the following:

1. The regular public or private nonsectarian preschool program;
2. The child development center or family day care home;
3. The child's regular environment, that may include the home;
4. A special site where preschool programs for both children with disabilities and children, who are not disabled, are located close to each other and have an opportunity to share resources and program;

5. Special education preschool program, with children, who are not disabled, attending and participating, for all or part of the program; or,
6. A public school setting which provides an age- appropriate environment, materials, and services.

Early education services shall be provided by a transdisciplinary team. Responsibilities of early education staff shall include consultation with regular preschool program providers, consultation with other specialists, assessment services, and direct services.

Services may be provided by any of the following methods:

1. Directly by a LEA or SCCOE;
2. Through an interagency agreement between a local educational agency and another public agency;
3. Through a contract with another public agency;
4. Through a contract with a nonpublic, nonsectarian school or nonpublic, nonsectarian agency; or
5. Through a contract with a nonsectarian hospital. (EC 56441.3, 56441.4, 56441.8)

2.10. F Instructional Adult-to-Child Ratio

Appropriate instructional adult-to-child ratios for the group services shall be dependent on the needs of the child.

Appropriate instructional adult-to-child ratios for group services shall be dependent on the needs of the child. However, because of the unique needs of individuals with exceptional needs between the ages of three and five years, inclusive, who require special education and related services, the number of children per instructional adult shall be less than ratios set forth in subsection (b) of Section 18204 of Title 5 of the California Code of Regulations, as it read on May 1, 1987, for young children in a regular preschool program. Group services provided to individuals with exceptional needs between the ages of three and five years, inclusive, identified as severely disabled pursuant to Section 56030.5 shall not exceed an instructional adult-to-child ratio of one to five. (EC 56441.5)

2.10. G Transition from Preschool to Kindergarten

As the preschool age child approaches the age to enter the elementary school environment, the child's preparation is geared toward readiness for kindergarten and later school success.

Prior to transitioning a child with disabilities from a preschool program to kindergarten, an appropriate reassessment of the child shall be conducted to determine if the child is still in need of special education and services. (EC 56445)

To: Parents of Birthdate

From: ESP Service Coordinator

CC:

Date: ESP Service Coordinator Phone/Email :

Re: **Planning for Transition from Early Intervention Services at Age Three**

Revised 2017-2018

SANTA CRUZ COUNTY EARLY START PROGRAM

TRANSITION GUIDANCE

1. Every child found eligible for Early Start is considered potentially eligible for Special Education at age three.
2. Every child with an Individualized Family Service Plan (IFSP) will have a **Transition Planning Meeting** and be referred to their school district of residence no later than the age of 2 years 9 months.
3. Families are informed of the transition process **and are aware that** they will have options as outlined below regarding *what information* is shared as part of the transition planning process.
4. There is no *opt-out* for a referral being made to the school district of residence. This is a mandated process that Early Start must follow. **What information can be sent as part of a referral is outlined for families.**

The above guidelines have been explained to me by my child's Service Coordinator.

Parent/Guardian

Date

Transition Planning Options:

☐ I do consent to the District attending the **Transition Planning Meeting.**

☐ I do not consent to the District attending the *Transition Planning Meeting*. I am aware that my child's Service Coordinator/Case Manager will need to gather time line information from the District to complete the transition planning page of the IFSP.

Parent/Guardian

Date

Referral Options:

☐ I am aware that a referral will be made to the District of Residence by the time my child is 2 years 9 months, and I consent to IFSP's and other developmental information generated by Early Start to be included.

SANTA CRUZ COUNTY EARLY START PROGRAM (ESP)
Santa Cruz County Office of Education & San Andreas Regional Center
PRESCHOOL REFERRAL & INFORMATION

Child's Name:		Birth Date:	
	Last	First	
Parents' Name(s):			
Address:			
Phone:		District of Residence:	

The child above will be turning 3 years old on _____; therefore, is no longer eligible for ESP services under Part C. I anticipate that transition to preschool program, if eligible, should occur when the child is 2 years, 11 months of age, _____.

☐ Family has chosen to share IFSPs and other developmental information generated by Early Start.

☐ Family has chosen that only demographic and contact information are shared with the District.

As this child's ESP Service Coordinator, I have informed the family about the transition process, timelines and have discussed with them different eligibility criteria for children when they turn 3 years old.

This notification constitutes a formal referral to your school district to determine eligibility for preschool special education services under Part B of IDEA and starts the 15-day timeline to present an assessment plan to parents to determine ongoing eligibility. If you need further information, (e.g. medical or other documentation) you will need to request it from the appropriate source. You may need to complete further observation, developmental assessment, etc. as determined by your school district policies. You may contact me to arrange for further observation or assessment information.

ESP Service Coordinator:		Date sent to District:	
Phone:		FAX:	831-465-9177
E-Mail:			

You will need to schedule the IEP, with the appropriate personnel, to explore placement options and arrange preschool visitation(s) as needed. Please complete the section below and return to COE Early Start to confirm receipt of referral.

COE EARLY START CONTACT: Anne McManus, Early Start Secretary – 831-462-1274
amcmanus@santacruzcoe.org ~ FAX: 831-465-9177

This transition has been assigned to:		Date returned to Early Start:	
Phone:		FAX:	
E-Mail:			

Please list below the names of school personnel who need access to this student's SEIS file:

NAME	E-MAIL

Revised: 7-2017 for SCCOE Early Start Program

**ESP to Preschool
Transition Timeline Chart**

Child turns 3	<i>ESP Service Coordinator</i> Transition Planning IFSP Review <i>(District Attends)</i>	<i>ESP Service Coordinator</i> Sends Packet to District	<i>District</i> Observes Child Assesses as needed	<i>District</i> Holds Transition (IFSP) IEP	<i>District/COE</i> Child Begins Preschool
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January	Sep	Oct	Nov	Nov/Dec	Jan <i>(immediately after break)</i>
February	Sep	Nov	Dec	Jan	Feb
March	Oct	Dec	Jan	Feb	Mar
April	Nov	Jan	Feb	Mar	Apr
May, June July, August	Feb	Mar	Apr	May	(Aug)/Sept <i>(beginning of school year)</i>
September	Feb	Apr	Apr/May	May	(Aug)/Sept <i>(beginning of school year)</i>
October	Mar	Apr	Apr/May	May	(Aug)/Sept <i>(beginning of school year)</i>
November	Mar	Apr	Apr/May	May	(Aug)/Sept <i>(beginning of school year)</i>
October	Mar	May	May/Jun	Sep	Oct
November	Mar	Sep	Sep	Oct	Nov
December	Sep	Oct	Nov	Nov/Dec	Jan <i>(immediately after break)</i>

Option 1

Option 1

Option 2

Option 2

🍀 Parents' Rights: *An Early Start Guide for Families* 🍀

Confidentiality & Access to Records

Early Start records are an important source of information about your child. The information you provide to the regional center or local education agency (LEA) about your child and your family is confidential. Such information will only be shared with authorized persons involved in your child's services.

As a parent, * you have the right to

1. access records, including the right to have you or your representative examine and obtain copies of records relating to your child; *You may request that any regional center or LEA amend or remove information relating to your child from the records.* [CFR 303.402, CCR 52164, CCR 52168]

2. receive, within five days of your request, copies of records relating to your child and/or explanations that you request; [CCR 52164]
3. request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and [CCR 52168]
4. have personally identifiable information about your child maintained in a confidential manner and have its sources, access, uses, and policies for location, storage, disclosure, retention, and destruction explained to you per the Family Education Rights and Privacy Act. [CFR 303.401, CFR 303.460, CCR 52160, CCR 52162, CCR 52165, CCR 52169]

** Refer to CCR 52000(b)(36) for definition of parent.*

Evaluation & Assessment

The determination of eligibility for Early Start in California includes a timely, comprehensive, multidisciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services. If no parent or guardian is available or the child is a ward of the court, a knowledgeable surrogate parent who has no conflicting interest will be appointed. Procedural safeguards ensure that families are provided their rights under the law. [CFR 303.322, CFR 303.406, CCR 52082]

As a parent, you have the right to

1. be fully informed of your rights under Early Start; [CFR 303.403, GC 95020(c), CCR 52160, CCR 52161]
2. refer your child for evaluation and assessment, provide information throughout the process, make decisions, and give informed consent for your child's early intervention services; [CFR 303.401, CFR 303.404, CCR 52040(d)]
3. understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered; [CFR 303.405, CCR 52162]
4. participate in the initial evaluation and assessment process including eligibility determination; [CFR 303.322, GC 95020, CCR 52082, CCR 52084]
5. receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA; [CFR 303.321, CFR 303.322, CCR 52086]
6. participate in a meeting to share the results of evaluations and assessments; and [GC 95020(b)]
7. participate in all decisions regarding eligibility and services. [CFR 303.343, GC 95014(a), GC 95020(b), CCR 52082(a), CCR 52104]

The Individuals with Disabilities Education Act (IDEA) requires the following:

1. Evaluation and assessment materials are administered in the language of the parents' choice or other mode of communication, unless it is clearly not feasible to do so. [CFR 303.323, CCR 52084]
2. Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory. [CFR 303.323, CCR 52082]
3. Evaluation and assessment materials are appropriate to assess the specific areas of developmental need and are used for the specific purposes for which they were designed. [CFR 303.322, CCR 52082]
4. Evaluations and assessments are conducted by qualified personnel. [CFR 303.322, CCR 52082, CCR 52084]
5. Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level. [CFR 303.322, CCR 52082]
6. Evaluations and assessments are administered in the five developmental areas, which include physical development (motor abilities, vision, hearing, and health status); communication development; cognitive development; adaptive development; and social or emotional development. *Assessments and evaluations are ongoing while your child is in Early Start.* [CFR 303.322, CCR 52082, CCR 52084, CCR 52102]
7. Evaluations and assessments shall be conducted in natural environments whenever possible. [CCR 52082(i), CCR 52084(e)]
8. Pertinent records relating to your child's health status and medical history are reviewed. [CFR 303.322, CCR 52082]
9. No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services. [CFR 303.323, CCR 52082]
10. Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary. [CFR 303.322, CCR 52084, CCR 52106]

Individualized Family Service Plan

An individualized family service plan (IFSP) is a written plan for providing early intervention services to an eligible child and the child's family. For an infant or toddler who has been evaluated for the first time, a meeting must take place within 45 days of the referral to the regional center or LEA to share the results of the evaluation, to determine eligibility, and, for children who are eligible, to develop the initial IFSP. Evaluation results and determination of eligibility may be shared with families prior to the first IFSP meeting. [CFR 303.340, CFR 303.342, GC 95020(b), CCR 52100, CCR 52102]

A periodic review of your child's IFSP must take place at least every six months. A review may occur more frequently if there are any changes to the IFSP or if you request a periodic review with the regional center or LEA. The IFSP must also be reviewed annually to evaluate how your child is doing and to make any needed changes to the IFSP. [CFR 303.342, CCR 52102]

During the development and implementation of an IFSP, you have the right as the parent to

1. attend the IFSP meetings and participate in developing the IFSP; [CFR 303.343, CCR 52104]
2. invite other family members to attend IFSP meetings; [CFR 303.343, CCR 52104]
3. invite an advocate or persons other than family members to attend and participate in the IFSP meetings; [CFR 303.343, CCR 52104]
4. have a copy of the complete IFSP; [CFR 303.402, CCR 52102]
5. have the contents of the IFSP fully explained in the language of your choice; [CFR 303.342, CFR 303.403, CCR 52102]

6. give consent to services listed on the IFSP. *If you do not give consent to a service, it will not be provided. You may withdraw consent after initially accepting or receiving a service;* [CFR 303.342, CFR 303.404, CFR 303.405, CCR 52102]
7. have services provided in the natural environment or an explanation of why that is not possible; [CFR 303.12, CFR 303.344, CCR 52106]
8. exchange information about your child among other agencies; [CFR 303.460, CCR 52112, CCR 52169]
9. be notified in writing before any agency or service provider proposes or refuses to initiate or change your child's identification, evaluation, assessment, placement, or the provision of appropriate early intervention services to your child or your family. [CFR 303.403, CCR 52161]

The notice must contain:

- the action that is proposed or refused,
- reasons for the action, and
- all available procedural safeguards.

The notice must be presented in the language of your choice, unless it is clearly not feasible to do so, and may be translated so that you understand its contents.

[CFR 303.400 to 303.460, CCR 52161]

Mediation Conferences, Due Process Hearings, and State Complaints

In Early Start, parents have rights and protections to assure that early intervention services are provided to their children in a manner appropriate to their needs, in consideration of family concerns, and in compliance with applicable federal and State statutes and regulations. The following procedures are only for children under the age of three years. [CFR 303.422, CCR 52170, CCR 52172, CCR 52173, CCR 52174]

As a parent, you have the right to

1. request a mediation conference and/or a due process hearing any time a regional center or LEA proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s); [CFR 303.419, CFR 303.420, CCR 52172]
2. be informed of your right to file a complaint or a request for mediation or due process; [CFR 303.510, CCR 52170]
3. file a complaint if you believe there has been a violation of any federal or state statute or regulation governing early intervention services under Early Start including eligibility and services; and [CFR 303.511, CCR 52170]
4. request a mediation conference immediately, prior to a complaint or due process hearing request, or at any time during the complaint/due process hearing processes to resolve a dispute related to any matter concerning federal or state statute or regulation governing early intervention services under Early Start [CCR 52170(b)]; and
5. file a complaint if a due process decision fails to be implemented. [CCR 52170(b)]

MEDIATION CONFERENCES

Mediation is a flexible, non-binding, confidential process in which a neutral mediator facilitates settlement negotiations between you and another party. Voluntary impartial mediation conferences are a more informal way to resolve disagreements with early intervention service agencies or to address alleged violations of any state and federal statutes or regulations. Mediation is voluntary [CFR 303.419, CCR 52173].

As a parent you have the right to

1. file a request for mediation as the initial option for resolving a dispute or any time during the due process hearing or complaint process [CFR 303.419, CCR 52173];
2. request a due process hearing or file a state complaint if the disagreement is not resolved [CCR 52173];
3. refuse to participate in mediation [CFR 303.419, CCR 52173];
4. have an impartial person facilitate the mediation conference [CFR 303.419, CCR 52173(c)];
5. require that the mediation conference is carried out at a time and in a location that is reasonably convenient for you [CFR 303.419, CCR 52173];
6. have all personally identifiable information maintained in a confidential manner [CFR 303.419(b), CCR 52173(g)]; and
7. receive a written document outlining the agreements reached as a result of the mediation conference [CFR 303.419, CCR 52173(i)].

Requests for mediation are filed with the:

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 2000, Sacramento, CA 95833
(916) 263-0654 Fax: (916) 376-6318
[CCR 52173]

DUE PROCESS HEARINGS

All parents are encouraged to resolve differences at the lowest administrative level possible. When differences between you and a regional center or LEA cannot be resolved, due process hearings are available. You, as a parent, are encouraged to seek assistance from your child's service coordinator, the regional center, or the Special Education Local Plan Area (SELPA) office. [CFR 303.420, CCR 52172]

Circumstances leading to a due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services. [CCR 52172(a)]

Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless you and the regional center or LEA otherwise agree to a change. If your disagreement involves a new service that has not started, your child will receive all services identified on the IFSP that are not in dispute. This does not include your regional center providing early intervention services after your child has reached 36 months of age, as federal law and regulations do not allow states to pay for early intervention services under any circumstances once your child transitions from Early Start. The program or programs your child enrolls in subsequent to transition from Early Start is responsible for providing you and your child services for which he or she is eligible to receive. [CCR 52172(g)]

Requests for a due process hearing are filed with the Office of Administrative Hearings at the following address:*

Office of Administrative Hearings
Attention: Early Start Intervention Section
2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833
(916) 263-0654 Fax: (916) 376-6318
[CCR 52172]

*The due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, and DDS website: www.dds.ca.gov/Forms/pdf/DS1802.pdf

The due process hearing must be completed within 30 days of receipt of the request by the Office of Administrative Hearings. The timely issuance of the written decision may not be delayed by any concurrent voluntary local efforts to resolve the matter. The decision will be final unless appealed. [CFR 303.425, CCR 52172(e)]

STATE COMPLAINTS

Any individual or organization may file a signed, written complaint against the Department of Developmental Services (DDS), the California Department of Education (CDE), or any regional center, LEA, or private service provider that receives Part C funds alleging violations of State or federal early intervention statute or regulation. The complaint process can also address remedies for denial of eligibility or appropriate services. However, even though DDS is mandated to investigate any complaint it receives, state law does not allow disclosure of the Early Start recipient's personally identifiable information without written parental consent, other than authorized employees specified by the regional center or LEA [CFR 303.510, CCR 52170(a)].

Information or assistance in filing complaints is available from your child's service coordinator, the regional center office, or the special education local plan area (SELPA). DDS and CDE are available for consultation regarding the filing of a complaint. Additional assistance is available from advocacy organizations such as the State Council on Developmental Disabilities or Disabilities Rights California. As efforts to resolve the matter at the local level are undertaken, a complaint may be filed concurrently with a request for a mediation conference or due process hearing. [CFR 303.423, CCR 52170]

Complaints are filed directly with the

Department of Developmental Services
Office of Human Rights and Advocacy Services
Attention: Early Start Complaint Unit
1600 9th Street, Room 240, MS 2-15
Sacramento, CA 95814
(916) 654-1888 Fax (916) 651-8210
[CCR 52170(e)]

Any individual or organization who files a complaint has the right to [CCR 52170]

1. receive assistance in filing the complaint from the service coordinator, regional center, or LEA; [CCR 52170]
2. not be compelled to use any other procedures under the Education Code or the Lanterman Developmental Disabilities Services Act to resolve the complaint; [GC 95007, CCR 52170]
3. submit additional information to DDS that may be helpful to the investigation; [CCR 52170]
4. receive a final written decision within 60 days of the date DDS receives the complaint; [CCR 52170]
5. receive appropriate remedies that may include monetary reimbursement or other corrective action, and assurance that services will be provided appropriately in the future if the decision of DDS includes remedies for denial of appropriate services; [CCR 52170]
6. have any issue in a complaint that is not part of a due process hearing be resolved by DDS within 60 days of the receipt of the complaint; [CFR 303.512(c), CCR 52171(c)]
7. be notified by DDS that the hearing decision is binding if an issue is being raised in a complaint that had previously been decided in a due process hearing involving the same parties; and [CCR 52170]
8. have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision. [CCR 52170]

The complaint must

1. be in writing and contain a signed statement alleging that DDS, CDE, the regional center, LEA, or other service provider involved with Early Start has violated a federal or State law or regulation; [CCR 52170(a)]
2. provide the name, address, and phone number of the complainant; [CCR 52170(f)]
3. contain a statement of facts upon which the violation is based; [CCR 52170(f)]
4. include the name of the party responsible against whom the complaint is being filed; [CCR 52170(f)]
5. have occurred not more than one year before the date the complaint is received by DDS unless a longer period is reasonable because the alleged violation continues for the child or other children, or [CCR 52170(c)]
6. have occurred not more than three years before the date on which the complaint is received by DDS if the complainant is requesting reimbursement or corrective action as remediation of the complaint [CCR 52170(c)]; and
7. the complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint. [CCR 52170]
8. be withdrawn if the complainant elects to participate in mediation within the 60-day complaint investigation.

IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS

3.1	PURPOSE AND SCOPE.....	3-1
3.2	IDENTIFICATION AND REFERRAL OF ENGLISH LEARNERS SUSPECTED OF HAIING A DISABILITY.....	3-1
3.3	SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL.....	3-2
3.4	STUDENT STUDY TEAM (SST).....	3-2
	3.4. A. SST TEAM MEMBERS.....	3-2
	3.4. B. SST RESPONSIBILITIES.....	3-3
3.5	ASSESSMENT PROCCEDURES FOR ENGLISH LEARNERS.....	3-3
	3.5. A. PSYCHOEDUCATIONAL ASSESSMENTS.....	3-4
	3.5. B. OTHER PROCEDURES FOR GATHERING INFORMATION.....	3-4
	3.5. C. ADDITIONAL ASSESSMENT GUIDELINES.....	3-5
3.6	PROGRAM OPTIONS.....	3-6
	3.6. A. SPECIFIC PROGRAM OPTIONS FOR ENGLISH LEARNERS.....	3-6
3.7	IEP DEVELOPMENT FOR ENLIGH LEARNERS WITH DISABILITIES.....	3-7
	3.7. A. LINGUISTICALLY APPROPRIATE GOALS, OBJECTIVESM AND PROGRAMS.....	3-8
	3.7. B. IEP CONSIDERATIONS FOR ENGLISH LEARNERS.....	3-8
	3.7. C. ADDITIONAL LINGUISTIC AND CULTURAL CONSIDERATIONS.....	3-9
	3.7. D. IEP ACCOMMODATIONS AND MODIFICATIONS.....	3-9
	3.7. E. IEP CHECKLIST FOR ENGLISH LEARNERS.....	3-9
	3.7. F. LINGUISTICALLY APPROPIRIATE GOALS AND OBJECTVIVES.....	3-10
	APPENDIX A FREQUENTLY ASKED QUESTIONS.....	3-12

IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS

3.1 PURPOSE AND SCOPE

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

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

All English learners must be properly identified. Identification includes the completion of the state-mandated Home Language Survey (HLS). The California English Language Development Test (CELDT) or Alternate Proficiency Instrument (ALPI) is administered to determine English proficiency. These assessments are to be done within 30 within 30 calendar days after the date of first enrollment in a California public school, or within 60 calendar days before the date of first enrollment, but not before July 1 of that school year" (EC 60810).

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

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

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

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

3.3 SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL

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

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

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

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

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

3.4 STUDENT STUDY TEAM (SST)

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

3.4. A. SST Team Members

Members of the team may include the following:

- At least one regular education teacher
- Bilingual personnel
- Principal or administrator
- Parent
- Special education specialist
- School psychologist
- School nurse
- Counselor or specialist

- Speech/language pathologist
- Interpreters (as needed)
- Student (as appropriate)
- Others

3.4. B. Student Study Team (SST) Responsibilities

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

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

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

After identifying what specific difficulty the student is experiencing, the next step is to find out why the student is having this difficulty. If an English learner is experiencing difficulties only in English, but not in the primary language, then the problem may be due to English language acquisition rather than an intrinsic disability.

3.5 ASSESSMENT PROCEDURES FOR ENGLISH LEARNERS

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

3.5. A. Psycho-Educational Assessments

Assessment requirements important to English learners include the following:

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

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

- School psychologist
- Speech/language pathologist
- Regular education teacher(s)
- Special education specialist
- School nurse
- Bilingual specialist
- Principal/vice principal/counselor
- Parent

3.5. B. Other Procedures for Gathering Information

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

Following is a brief overview of four assessment procedures.

1. Norm-referenced Tests: The norm-referenced test measures an individual's performance in relation to others on the same instrument. Key words often associated with this type of testing include: reliability, validity, and standardization. When using this type of test, it is critically important that the pupil being tested comes from a background (e.g., language, socioeconomic status) similar to that of the pupils on which the norms were derived is questionable. This often is the case with English learners.
2. Criterion-Referenced Tests: The criterion referenced test breaks down an area and measures what a student can do on each task in that area. No comparison of one student's performance with the performance of the group can be made. This type of testing gives yes/no answers to instructional questions (e.g. Can the student tell time by the ½ hour?) With this information, curricular suggestions can be made leading to specific goals and objectives.
3. Systematic Observation: This alternative assessment encourages the direct study of the referred student in a wide variety of settings. In systematic observation, one selects a specific behavior to observe, selects an appropriate measuring technique, depicts what is seen in the observation, and makes interpretations. Since the student is in his/her natural environment, it is possible to obtain a better picture of what the student is actually doing while using his/her own peer group as a backdrop. However, the presence of an observer may alter the environment and thus affect the validity of the behavior observed.
4. Structured Interview: This alternative assessment technique provides for a broad range of information collection. It is designed to incorporate the expectations and concerns of all those who are associated with the referral. Additionally, interview based assessments allow for the funneling of information and expectations into the formal assessment system.

3.5. C. Additional Assessment Guidelines

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

- Assess language dominance at time of referral or consider prior language dominance assessment conducted by regular education personnel.
- Whenever possible use two language dominance tests to establish functioning information.
- Assess in student's dominant language whenever possible.
- Assess using non-language measures (e.g., performance).

- Use a trained interpreter whenever needed.
- Assess achievement in both primary language and English.
- Do not accept scores on translations of tests as valid; use other, non-biased or non test based measures to support the scores.
- Assess adaptive behavior, mindful of different cultural norms.
- When considering the presence of a language disability, consider whether primary language is deficient when compared to peers and school population. Is language generally depressed (common in low socioeconomic populations) or are there significant peaks and valleys? Is there evidence of a true language disability?

3.6 PROGRAM OPTIONS

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

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

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

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

3.6. A. Specific Program Options for English Learners

There are three different types of programs for English Learners. All programs include daily English Language Development (ELD) instruction along with self-image and

cross-cultural instruction that is integrated throughout the subject area. Each program focuses on the development of speaking, listening, reading, and writing skills to develop second language literacy in English. Below is a list of programs offered along with a brief summary of possible components for each program.

Structured English Immersion

- a. Reading taught in English
- b. Core curriculum taught in English
- c. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help with understanding
- d. Daily English Language Development (ELD) instruction
- e. Self-image and cross-cultural instruction is integrated throughout subject areas
- f. May include some primary language support to help with understanding

English Mainstream

- a. Reading taught in English
- b. Core curriculum taught in English
- c. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help understanding
- d. Daily English Language Development (ELD) instruction
- e. Self-image and cross-cultural instruction is integrated throughout subject areas

Alternative Program

- a. Develops literacy in primary language first
- b. Core curriculum taught in primary language while student is acquiring English
- c. Daily English Language Development (ELD) instruction
- d. Gradual transition from primary language to English in reading and core subject matter
- e. Self-image and cross-cultural instruction is integrated throughout subject areas

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

3.7 IEP DEVELOPMENT FOR ENGLISH LEARNERS WITH DISABILITIES

IEP Teams should ensure that:

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

Other requirements include:

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

3.7. A. LINGUISTICALLY APPROPRIATE GOALS, OBJECTIVES, AND PROGRAMS

CCR, Title 5, Section 3001 (s): "Linguistically appropriate goals, objectives, and programs means those activities which lead to the development of English language proficiency; and those instructional systems either at the elementary or secondary level which meet the language development needs of the limited English language learner. For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311(c), including a program provided in the individual's primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

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

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

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

3.7. B. IEP CONSIDERATIONS FOR ENGLISH LEARNERS

Linguistically appropriate goals and objectives have the following characteristics:

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

3.7. C. ADDITIONAL LINGUISTIC AND CULTURAL CONSIDERATIONS

Culturally appropriate goals and objectives have the following characteristics:

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

3.7. D. IEP ACCOMMODATIONS & MODIFICATIONS

The IEP should stipulate appropriate accommodations and/or modifications that may be needed to assist the student who is an English learner be successful in an educational setting. Examples of accommodations that may be appropriate to consider for students learning English may be but are not limited to the following:

- Primary language support to assist with academics
- Translation devices
- Extra time on tests and assignments
- Use of reference materials with visuals to aide comprehension
- Bilingual dictionary if applicable to second language

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

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

3.7. E. IEP CHECKLIST FOR ENGLISH LEARNERS

- ☐ The IEP indicates if the student is classified as an English learner
- ☐ The IEP includes information about the student's current level of English language proficiency in listening, speaking, reading, and writing (based on current CELDT or alternative assessment scores/levels)
- ☐ The IEP indicates if the student is going to take CELDT or requires an alternate assessment to CELDT and, if so, what will be the alternate assessment utilized

- ☐ The IEP indicates which testing accommodations or modifications the student may utilize for CELDT
- ☐ The IEP indicates how English language development (ELD) needs will be met and who will provide those services
Note: Indicate the setting, duration and frequency
- ☐ The IEP indicates if primary language support is needed
- ☐ The IEP indicates what language will be the language of instruction
- ☐ The IEP includes goals and objectives that are linguistically appropriate

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

3.7 F. Linguistically Appropriate Goals and Objectives (LAGOS)

It is required that the IEP for an English Learner include linguistically appropriate goals (and objectives for students receiving a functional skills level curriculum) which lead to the development of English language proficiency. Linguistically appropriate goals, objectives, and programs means:

1. Those activities which lead to the development of English language proficiency;
2. Those instructional systems which lead to the language development of English language proficiency; and
3. Those instructional systems which lead to the language development needs of English language learner. 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 an alternate 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 (EC Section 311(c); CR, Title 5, Section 3001 (s)).

Note: Even though it is not a legal requirement to formally identify a preschool age student as an English Learner in California, federal regulations require the IEP team to determine if the student is an English learner for purposes of the IEP and include linguistically appropriate goals and services.

Linguistically appropriate IEP goals for ELs should:

- Be appropriate for the cognitive level of the student;
- Be appropriate for the linguistic level of the student;
- Match the developmental level of the student's primary (L1) or secondary (L2) language;

- Access the student's prior knowledge and experiences;
- Incorporate culturally relevant materials and experiences; and
- Affirm the student's cultural heritage.

It may be beneficial for the IEP team to align a student's LAGOS to the California English Language Development Standards as appropriate based on assessed areas of language proficiency need and academic deficits related to the disability (Personal communication with staff at the CDE Special Education Division 12/2011).

The *California English Language Development Standards* are available for download at www.cde.ca.gov/be/st/ss/index.asp)

Frequently Asked Questions

Question: Is reclassification to RFEP the responsibility of the IEP team for EL students in special education?

Response: Each district/LEA must establish policies and procedures to designate which staff or the team members that are responsible for reclassification of EL students. As per the CDE 2011-2012 *CELDT Information Guide* the IEP team may be the most appropriate group of professionals to make reclassification decisions. It is important to note that an EL specialist should be in attendance at the IEP where reclassification decisions may be made since they have the specialized knowledge relevant to second language acquisition.

Question: May a school EL reclassification team use “alternate criteria” to reclassify a student who is EL to RFEP?

Response: No. There is no provision that allows an LEA to use “alternate reclassification criteria.” LEAs must follow the four criteria established by the CDE as per Ed Code Section 313(d). However, as per the CDE 2011-2012 *CELDT Information Guide*, LEAs ultimately make final decisions about reclassification and may determine how to best apply the reclassification guidelines.

Question: May a school classify a student that has severe disabilities and is non-verbal as FEP upon entry without testing the student?

Response: No, not if the student’s primary way to communicate is with a language other than English as indicated by a mark of “yes” by the parent(s) or guardian on the first three answers of the HLS. The LEA must assess the student’s English proficiency using CELDT or another alternate assessment (as per the IEP) to determine if the student is FEP upon entry or EL. If the parent(s) or guardian indicates that a language other than English is used in the home on the fourth question, then it is up to the LEA whether or not to administer the CELDT or an alternate assessment to determine EL status. It is also important to note that if the IEP team reviews the CELDT or alternate language proficiency results and determines that the student’s scores are not a valid reflection of the student’s English proficiency, the team may take into consideration other data and make a determination about whether the student is FEP upon entry or EL.

Question: According to the CDE’s first reclassification criteria, the student is required to pass the English language proficiency section on CELDT with an overall proficiency level of early advanced or higher, a listening score of intermediate or higher, a speaking score of intermediate or higher, a reading score of intermediate or higher, and a writing score of intermediate or higher. May the IEP team use the results of the “alternate assessment” to CELDT that was designated by the IEP team as the “objective assessment instrument?”

Response: Yes, the reclassification team may use the results of an alternate assessment as long as the student demonstrates English proficiency (appropriate to his or her level of functioning) in all four domains: listening, speaking, reading, and writing.

Question: For the fourth reclassification criteria “comparison of performance in basic skills,” may the reclassification team use data from the CAPA assessments if the student does not take CST or CMA?

Response: Yes, if that is the assessment recommended by the IEP team.

PARENTAL RIGHTS & PROCEDURAL SAFEGUARDS

4.1	PURPOSE AND SCOPE.....	4-1
4.2	OVERVIEW.....	4-1
4.3	PARENTAL RIGHTS & PROCEDURAL SAFEGUARDS.....	4-1
4.4	TRANSFER OF PARENTS RIGHTS AT AGE OF MAJORITY.....	4-1
4.5	PARENT REVOCATION OF CONSENT.....	4-2
 APPENDIX A	 SPECIAL EDUCATION RIGHTS OF PARENTS AND CHILDREN; NOTICE OF PROCEDURAL SAFEGUARDS	 4-3

PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

4.1 PURPOSE AND SCOPE

Students with disabilities and their parents are afforded rights and procedural safeguards to ensure that all individuals with disabilities are provided a free and appropriate public education (FAPE).

Parents can obtain assistance in understanding their rights and procedural safeguards from the Special Education Director of their child's district of attendance, the SELPA Administrator, or the California Department of Education (CDE).

The Notice of Procedural Safeguards

Parents shall be given/ a copy of their rights and procedural safeguards only one time a year, except that a copy also shall be given in the following situations to the parents:

- (A) Upon initial referral or parental request for assessment.
- (B) Upon receipt of the first state complaint in a school year.
- (C) Upon receipt of the first due process hearing request in a school year.
- (D) When a decision is made to make a removal that constitutes a change of placement of an individual with exceptional needs because of a violation of a code of pupil conduct.
- (E) Upon request by a parent.(EC 56301(d)(2))

Parent may refuse the offer to receive a copy of their rights and procedural safeguards, but they must be offered a copy in all instances listed above.

4.2 OVERVIEW

Local Education Agencies (LEA) have an obligation to seek out children with disabilities between birth and age 21. A child with a disability is one who has been identified by an Individualized Education Program (IEP) Team as having one or more of the thirteen disabling conditions that are defined in federal regulation. Also, the child is one, who because of the disability requires special education and related services to benefit from education and meets state eligibility criteria.

Children, with disabilities, are offered programs that provide for maximum interaction with typically developing peers in a manner that is appropriate to the needs of both.

4.3 PARENTAL RIGHTS AND PROCEDURAL SAFEGUARDS

The "Parental Rights and Procedural Safeguards for Special Education" document is at the end of this chapter http://www.nscselpa.org/pdfs/parents_rights.pdf (English)
http://www.nscselpa.org/pdfs/parents_rights_spanish.pdf (Spanish)

4.4 TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY

When a student with a disability reaches age 18 (unless determined to be incompetent by a court of law), the school district must provide any required notices to both the individual with disabilities and the parents. All rights transfer to the child at the age of majority.

The school district must notify the individual and the parents of this transfer at least one year prior to the student's 18th birthday.

If a student with a disability has reached age 18 and has not been determined to be incompetent, but is determined not to have the ability to provide informed consent, the school district shall follow the state procedures for appointing an appropriate individual to represent the educational interests of the child.

All rights of youth incarcerated in adult or juvenile federal, state, or local correctional institutions transfer to the child. (*EC 56000-56524; CFR 300.500-300.589*)

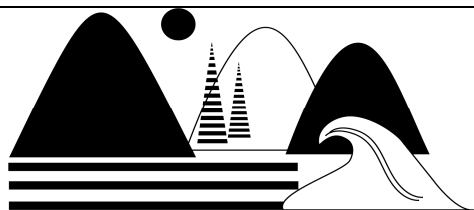
4.5 PARENT REVOCATION OF CONSENT

Effective December 31, 2008, parents are now able to revoke consent for special education and related services, and school districts shall not be able to challenge the decision through mediation or due process. Also clarified as part of these regulatory changes: (1) If parents revoke consent for special education, the school district is not required to amend the child's educational records to delete all references to the child's prior receipt of special education services (34 C.F.R. 300.9(c)(3)); and (2) If parents revoke consent for special education, the school district will not be considered to be in violation of its obligation to provide FAPE to the child during the period of time when the parents refuse to consent to services (34 C.F.R. 300.300(b)(4)(iii)), and is not required to convene an IEP team meeting or develop an IEP for the child for further provision of services (34 C.F.R. 300.300(b)(4)(iv)).

Department of Education officials emphasize that when parents revoke consent for special education and related services, they must do so in writing, and although school officials cannot delay in ceasing to provide special education and related services to the child, they must provide the parent with prior written notice (and a copy of procedural safeguards) prior to stopping services.

Appendix A – Parental Rights and Procedural Safeguards (English)

Appendix B – Parental Rights and Procedural Safeguards (Spanish)



**North Santa Cruz County SELPA
Special Education Local Plan Area
400 Encinal Street
Santa Cruz, CA 95060
Voice: 831/475-4982
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**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 January 2009**

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. 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:

1. A description of the actions proposed or refused by the school district
2. An explanation of why the action was proposed or refused
3. A description of each assessment procedure, record, or report the agency used as a basis for the action proposed or refused
4. A statement that parents of a child with a disability have protection under the procedural safeguards

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 those options were rejected; and
7. 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:

1. 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
2. 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
3. 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

4. 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[l])

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 nonadversarial 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 nonattorney 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 (*EC* 56505[e][3])
5. 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])
6. Have your child present at the hearing (*EC* 56501[c][1])
7. Have the hearing be open or closed to the public (*EC* 56501[c][2])
8. 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])
9. 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])
10. Have an interpreter provided (CCR 3082[d])
11. Request an extension of the hearing timeline (*EC* 56505[f][3])
12. Have a mediation conference at any point during the due process hearing (*EC* 56501[b][2]), and
13. 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:

1. Name of the child
2. Address of the residence of the child
3. Name of the school the child is attending
4. In the case of a homeless child, available contact information for the child and the name of the school the child is attending, and
5. 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[i]; 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:

1. The court finds that you unreasonably delayed the final resolution of the controversy
2. The attorneys' hourly fees exceed the prevailing rate in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience
3. The time spent and legal services provided were excessive, or
4. 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

May my child 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>.

The District would like to work with you to resolve all complaints at the local level whenever possible. We invite you to meet with the administrator who has been designated to work with compliance issues and attempt to resolve your concern informally before a complaint is filed. S/he will maintain confidentiality as permitted by law. If your complaint cannot be resolved, a formal investigation will be initiated or you will be referred to the appropriate agency for assistance.

District Contact Information

Please contact the Special Education Administrator at the phone number listed below for your school district if you:

- Would like additional copies of the **Notice of Procedural Safeguards**
- Would like information on North Santa Cruz County SELPA policies and procedures
- Need assistance in understanding the provisions of your rights and safeguards
- Require a translation orally, by other means, in a different language or other mode of communication

<u>District</u>	<u>Special Ed. Phone</u>	<u>District</u>	<u>Special Ed. Phone</u>
Bonny Doon Elementary SD	831-427-2300	Pacific Collegiate School	831-479-7785
Delta Charter School	831-477-5212	San Lorenzo Valley USD	831-336-9678
Happy Valley Elementary SD	831-429-1456	Santa Cruz City Schools	831-429-3410
Live Oak SD	831-475-6333	Santa Cruz County Ofc. of Ed.	831-466-5781
Mountain Elementary SD	831-475-6812	Scotts Valley USD	831-438-1820
Pacific Elementary SD	831-425-7002	Soquel Elementary USD	831-464-5631

If you need additional assistance beyond your Local District/County Office or wish general information regarding Special Education programs, services and policies within the North Santa Cruz County Special Education Local Plan Area (SELPA), you may access the SELPA website at www.nscselpa.org or you may contact the SELPA office at 831/475-4982 or FAX: 831/479-9284

Glossary of Abbreviations Used in This Notification

ADR	Alternative Dispute Resolution
<i>CFR:</i>	<i>Code of Federal Regulations</i>
<i>EC</i>	<i>California Education Code</i>
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
<i>USC:</i>	<i>United States Code</i>

Derechos a la Educación Especial de Padres e Hijos

En virtud de la Ley de la Educación de Individuos con Discapacidades, Parte B

• Aviso de Garantías Procesales

Revisado: Enero de 2009

Nota: El término *distrito escolar* se utiliza a lo largo de este documento para describir cualquier agencia de educación pública responsable de impartir a su hijo(a) el programa de educación especial. El término *evaluación* se utiliza para referirse a una prueba o examen. En este aviso, las leyes federales y estatales se citan con sus abreviaturas en inglés, las cuales se explican en un glosario en la última página del presente.

¿Qué es el Aviso de Garantías Procesales?

Esta información proporciona una descripción general de los derechos educativos o las garantías procesales de los padres, tutores legales y padres sustitutos de niños con discapacidades desde los 3 (tres) hasta los 21 (veintiún) años de edad y de estudiantes que han cumplido 18 (dieciocho) años (la mayoría de edad).

El Aviso de Garantías Procesales se requiere en virtud de la Ley de la Educación de Individuos con Discapacidades (conocida en inglés como IDEA) y se les debe entregar: una vez al año. Además, se les debe proporcionar una copia:

- ❖ Cuando así la soliciten;
- ❖ La primera vez que su hijo(a) sea referido(a) para una evaluación de educación especial;
- ❖ Cada vez que se le entregue un plan de evaluación para evaluar a su hijo(a);
- ❖ Cuando reciba el primer reclamo de proceso legal o queja estatal en un año escolar; y
- ❖ Cuando se decida hacer un retiro que constituya un cambio de ubicación.

(20 USC 1415[d]; 34 CFR 300.504; EC 56301[d] [2], EC 56321, y 56341.1[g] [1])

¿Qué es la Ley de la Educación de Individuos con Discapacidades (IDEA)?

IDEA es una ley federal que le requiere a los distritos escolares brindar una “educación pública apropiada y gratuita” (conocida en inglés como FAPE) a los niños con discapacidades que sean elegibles. Una educación pública apropiada y gratuita significa que la educación especial y los servicios relacionados se deben proporcionar a su hijo(a) conforme a lo descrito en un programa de educación individualizado (conocido en inglés como IEP), bajo la supervisión pública y sin costo alguno para usted.

¿Yo puedo participar en las decisiones sobre la educación de mi hijo(a)?

Se le debe brindar la oportunidad de participar en cualquier reunión para tomar decisiones sobre el programa de educación especial de su hijo(a). Usted tiene el derecho de participar en las reuniones del equipo del IEP sobre la identificación (elegibilidad), evaluación o ubicación

educacional y otras cuestiones relacionadas con FAPE de su hijo(a). (20 USC 1414[d] [1]B–[d][1][D]; 34 CFR 300.321; EC 56341[b], 56343[c])

Los padres, tutores legales o el distrito escolar tienen el derecho de participar en el desarrollo del IEP e iniciar el intento de grabar electrónicamente el proceder de las reuniones del equipo IEP. De menos de 24 horas antes de la reunión, el padre o tutor legal notificará a los miembros del equipo IEP de su intención de grabar la junta. Si los padres o tutores legales no dan su consentimiento al distrito para grabar la reunión del equipo IEP, la reunión no se grabará por grabador.

Entre sus derechos se incluye el de obtener información sobre la disponibilidad de FAPE, incluyendo todas las opciones de programas y todos los programas alternativos disponibles, tanto públicos como privados. (20 USC 1401[3], 1412[a][3]; 34 CFR 300.111; EC 56301, 56341.1[g][1] y 56506)

¿Dónde puedo obtener más ayuda?

Cuando tenga alguna duda acerca de la educación de su hijo(a), es importante que se comunique con el maestro o el director de su niño(a) para hablar sobre él(ella) y cualquier problema que usted vea. El personal en su distrito escolar o área del plan local de educación especial (conocida en inglés como SELPA) puede responder a preguntas sobre la educación de su hijo(a), sus derechos y sus garantías procesales. Asimismo, si tiene alguna duda, esta conversación informal a menudo resuelve el problema y ayuda a mantener una comunicación abierta. Para ayudarle a entender las garantías procesales, al final de este documento se enumeran algunos recursos adicionales.

¿Qué si mi hijo/a tiene sordera, discapacidad auditiva, ceguera, discapacidad visual o sordera-ceguera?

Las Escuelas Especiales del Estado (State Special Schools) proporcionan servicios a niños que tienen sordera, discapacidad auditiva, ceguera, discapacidad visual o sordera-ceguera en cada una de las tres facilidades: las Escuelas para los Sordos (School for the Deaf) en Fremont, Riverside y la Escuela para los Ciegos (School for the Blind) en Fremont. Programas residenciales y diarios se proporcionan a niños de las edades infantiles hasta 21 años en las dos escuelas para sordos. Tales programas se ofrecen a estudiantes de cinco hasta 21 años en la escuela para ciegos. Las Escuelas Especiales del Estado ofrecen servicios de asesoramiento y asistencia técnica. Para más información sobre las Escuelas Especiales del Estado, favor de visitar el sitio Web del Departamento de Educación de California, <http://www.cde.ca.gov/sp/ss> o pregunte para más información a los miembros del equipo IEP de su hijo/a.

Aviso, Consentimiento, Evaluación, Nombramiento de Padre Sustituto y Acceso a los Expedientes

Aviso Escrito Anticipado

¿Cuándo se necesita un aviso?

Este aviso se debe entregar cuando el distrito escolar propone o rechaza iniciar un cambio en la identificación, evaluación o ubicación académica de su hijo/a con necesidades especiales o en el proporcionar de una educación pública apropiada y gratuita. (20 USC 1415[b][3] y (4), 1415[c][1], 1414[b][1]; 34 CFR 300.503; EC 56329 y 56506[a])

El distrito escolar le debe informar sobre las evaluaciones propuestas para su hijo(a) en un aviso escrito o plan de evaluación dentro de los 15 (quince) días siguientes a su solicitud escrita para una evaluación. Este aviso debe ser comprensible y estar escrito en su idioma nativo u otro modo de comunicación, a menos que sea claramente imposible hacerlo. (34 CFR 300.304; EC 56321)

¿Qué me dirá el aviso?

El Aviso Escrito Previo debe incluir lo siguiente:

1. Una descripción de las medidas propuestas o rechazadas por el distrito escolar;
2. Una explicación del motivo por el que se propuso o rechazó la medida;
3. Una descripción de cada procedimiento de evaluación, registro o informe que la agencia utilice como fundamento para la medida propuesta o rechazada;
4. Una declaración de que los padres de un niño(a) con discapacidad están protegidos por las garantías procesales;
5. Fuentes a donde los padres puedan llamar para obtener ayuda y entender las disposiciones de esta parte;
6. Una descripción de otras opciones que consideró el equipo del IEP y los motivos por los cuales se rechazaron; y
7. Una descripción de cualquier otro factor pertinente para la medida propuesta o rechazada. (20 USC 1415[b][3] y [4], 1415[c][1], 1414[b][1]; 34 CFR 300.503)

Consentimiento de los Padres

¿Cuándo se requiere mi aprobación para una evaluación?

Usted tiene el derecho de referir a su hijo/a a los servicios de educación especial. Usted debe dar su consentimiento informado por escrito antes de proceder con la primera evaluación de educación especial de su hijo/a. Los padres tienen al menos 15 (quince) días desde recibir el plan de evaluación propuesto para tomar una decisión. La evaluación puede empezar inmediatamente después de recibir el consentimiento y se debe completar, junto con el IEP desarrollado, dentro de los 60 (sesenta) días siguientes del consentimiento.

¿Cuándo se requiere mi aprobación para los servicios?

Usted debe dar su consentimiento informado por escrito antes de que su distrito escolar pueda impartir a su hijo(a) la educación especial y los servicios relacionados.

¿Cuáles son los procedimientos para seguir cuando un padre no presta su consentimiento?

Si usted no da su consentimiento para una evaluación inicial u omite responder a una solicitud para dar su consentimiento, el distrito escolar puede conducir la evaluación inicial mediante los procedimientos del proceso legal.

Si usted se rehúsa a dar su consentimiento para iniciar los servicios, el distrito escolar no impartirá la educación especial ni los servicios relacionados; tampoco buscará proveer los servicios mediante el proceso legal.

Si el distrito escolar determina que el componente del programa de educación especial propuesto que usted no aprobó es necesario para impartir a su hijo(a) una educación pública apropiada y gratuita, deben iniciar una audiencia de proceso legal. Si se mantiene una audiencia del proceso legal, la resolución de la misma será definitiva y obligatoria.

En el caso de reevaluaciones, el distrito escolar debe documentar las medidas razonables para obtener su consentimiento. Si usted no responde, el distrito escolar podrá proceder con la reevaluación sin su consentimiento. (20 USC 1414[a][1][D] y 1414[c]; 34 CFR 300.300; EC 56506[e], 56321[c] y [d], y 56346)

¿Cuándo puedo revocar mi consentimiento?

Si a cualquier tiempo posterior a la iniciación de servicios en educación especial, el padre del estudiante revoca su consentimiento por escrito para la continuación de educación especial y servicios relacionados, la agencia publica:

1. No puede continuar a proporcionar educación especial y servicios relacionados al niño, pero debe proveer noticia previa por escrito según la regulación federal, 34 CFR Sección 300.503, antes de cesar tales servicios.
2. No puede utilizar los procedimientos en la subparte E de Parte 300 en 34 CFR [incluyendo los procedimientos de mediación (34 CFR Sección 300.506) o el proceso debido (34 CFR Sección 300.507 hasta 300.516)] a fin de obtener un acuerdo o mandato que los servicios se le proporcionen al niño/a.
3. No se considerara en violación del requerimiento de ofrecer una educación gratis y apropiada (FAPE) al niño/a por el fallo de proporcionarle más educación especial y servicios relacionados.
4. No será requerido a reunir el equipo de IEP o desarrollar un IEP, en conformidad con 34 CFR Secciones 300.320 y 300.324, para el niño/a por la provisión de educación especial y servicios relacionados.

Favor de notar que en acuerdo con 34 CFR Sección 300.9(c)(3), si los padres revocan su consentimiento por escrito para la participación de su niño/a en educación especial y servicios relacionados después la iniciación de servicios, la agencia pública no es requerida a enmendar los archivos educacionales del estudiante para remover referencias del recibo de educación especial a causa de la revocación del consentimiento.

Nombramiento de un Padre Sustituto

¿Qué ocurre si un padre no puede ser identificado ni localizado?

Los distritos escolares deben asegurar que se asigne una persona para actuar como padre sustituto de un niño con discapacidad cuando no es posible identificar a alguno de sus padres o el distrito escolar no puede localizar a alguno de sus padres.

Del mismo modo, se debe asignar un padre sustituto si el niño es un joven sin hogar ni compañía, dependiente adjudicado o en tutela del tribunal en virtud del *Código de Bienestar e Instituciones*, en inglés (WIC), del estado y es referido a educación especial o ya ha tenido un IEP. (20 USC 1415[b][2]; 34 CFR 300.519; EC 56050; GC 7579.5 y 7579.6)

Evaluación No Discriminatoria

¿Cómo se evalúa a mi hijo(a) para los servicios de educación especial?

Usted tiene el derecho de que se evalúe a su hijo(a) en todas las áreas de discapacidad sospechadas. Los materiales y procedimientos utilizados para la evaluación y ubicación no deben ser discriminatorios en el aspecto ni sexual, racial, o cultural.

Se deben proporcionar los materiales de evaluación y el examen se debe aplicar en el idioma o modo de comunicación nativo de su hijo(a) y de una forma tal que tenga mejores posibilidades de generar información precisa sobre lo que su hijo(a) sabe y puede realizar académica, desenvolvimiento y funcionalmente, a menos que sea evidente que no se puede proporcionar o aplicar.

Un solo procedimiento no puede ser el único criterio para determinar la elegibilidad y el desarrollo de FAPE para su hijo(a). (20 USC 1414[b][1]–[3], 1412[a][6][B]; 34 CFR 300.304; EC 56001[j] y 56320)

Evaluaciones Académicas Independientes

¿Se puede evaluar a mi hijo(a) de manera independiente y que el distrito cubra el gasto?

Si está en desacuerdo con los resultados de la evaluación realizada por el distrito escolar, usted tiene el derecho de solicitar y obtener una evaluación educativa independiente para su hijo(a) de una persona calificada para efectuar la evaluación y el costo se cubrirá con dinero público.

Los padres tienen derecho a una sola evaluación educativa independiente con dinero público cada vez que la agencia pública realice una evaluación con la cual no estén de acuerdo.

El distrito escolar debe responder a su solicitud para una evaluación educativa independiente y brindarle información acerca de dónde la puede obtener.

Si el distrito escolar considera que la evaluación realizada por el distrito es correcta y que no es necesaria una evaluación independiente, el distrito escolar debe solicitar una audiencia del proceso legal para demostrar que su evaluación fue apropiada. Si el distrito prevalece,

usted aún tiene el derecho a una evaluación independiente, pero no cubierta con dinero público. El equipo del IEP debe considerar las evaluaciones independientes.

Los procedimientos de evaluación del distrito permiten la observación en clase de los estudiantes. Si el distrito escolar observa a su hijo(a) en su salón de clases durante una evaluación o si hubiese permitido observar a su hijo(a), la persona que realice una evaluación educativa independiente también tendrá permiso de observarlo(a) en el salón de clases.

Si el distrito escolar propone una nueva ubicación escolar para su hijo(a) y se está realizando una evaluación educativa independiente, el asesor independiente tendrá permiso de observar primero la nueva ubicación propuesta. (20 USC 1415[b][1] y [d][2][A]; 34 CFR 300.502; EC 56329[b] y [c])

Acceso a los Expedientes Académicos

¿Puedo examinar los expedientes académicos de mi hijo/a?

Usted tiene el derecho de examinar y revisar todos los expedientes académicos de su hijo(a) sin demora innecesaria, incluso antes de una reunión sobre el IEP de su hijo(a) o antes de una audiencia del proceso legal. El distrito escolar le debe brindar acceso a los expedientes y copias, si las solicita, dentro de los 5 (cinco) días de negocio siguientes a que se presente la solicitud verbal o por escrito. (EC 49060, 56043[n], 56501[b][3] y 56504)

Cómo se Resuelven los Desacuerdos

Audiencia de Proceso Legal

¿Cuándo está disponible una audiencia del proceso legal?

Usted tiene el derecho de solicitar una audiencia de debido proceso imparcial acerca de la identificación, evaluación y la ubicación académica de su hijo(a) o sobre la entrega de FAPE. La solicitud de una audiencia de proceso legal debe ser presentada dentro de los dos años siguientes a la fecha en que usted supo o debió saber sobre la alegada acción que forma la base del reclamo de proceso legal. (20 USC 1415[b][6]; 34 CFR 300.507; EC 56501 y 56505[l])

Mediación y Método Alternativo Para Resolver Conflictos

¿Puedo solicitar una mediación u otro método alternativo para resolver el conflicto?

Usted puede presentar una solicitud para mediación antes o después de solicitar una audiencia del proceso legal.

Usted puede solicitar al distrito escolar que solucione las controversias a través de una mediación o un método alternativo para resolver conflictos (ADR, por sus siglas en inglés), el cual es menos hostil que audiencia del proceso legal. El ADR y la mediación son métodos voluntarios para solucionar una controversia y no se deben utilizar para dilatar su derecho a una audiencia del proceso legal.

¿Qué es una junta de mediación previa a la audiencia?

Usted puede buscar una solución a través de la mediación antes de presentar una solicitud para una audiencia del proceso legal. La junta es un procedimiento informal que se lleva a cabo sin confrontación para resolver cuestiones relacionados a la identificación, evaluación o ubicación académica de un(a) niño(a) o FAPE.

En la junta de mediación previa a la audiencia, el padre o el distrito escolar pueden ser acompañados y aconsejados por representantes que no sean abogados y pueden consultar con un abogado antes o después de la junta. Sin embargo, solicitar o participar en una junta de mediación previa a la audiencia no es un prerrequisito para solicitar una audiencia del proceso legal.

Todas las solicitudes para una junta de mediación previa a la audiencia se deben presentar con el Superintendente. El partido que inicie una junta de mediación previa a la audiencia, debe proporcionar a la otra parte una copia de la solicitud al momento de presentarla.

La junta de mediación previa a la audiencia se debe programar dentro de los 15 (quince) días siguientes a que el Superintendente reciba la solicitud de mediación, y se debe completar dentro de los 30 (treinta) días siguientes de ser recibida, a menos que ambas partes acuerden ampliar el plazo. Si se obtiene una resolución, las partes deberán elaborar un acuerdo por escrito legalmente obligatorio donde se establezca esa resolución. Todas las discusiones durante el proceso de mediación deben ser confidenciales. Todas las juntas de mediación previas a la audiencia se deben programar de forma oportuna y llevar a cabo a una hora y en un lugar razonablemente cómodo para las partes. Si no es posible resolver las cuestiones de manera satisfactoria para todas las partes, la que solicitó la junta de mediación tiene la opción de solicitar una audiencia del proceso legal. (EC 56500.3 y 56503)

Derechos del Proceso Legal

¿Cuáles son mis derechos del proceso legal?

Usted tiene derecho a:

1. Tener una audiencia administrativa justa e imparcial a nivel estatal ante una persona experta en las leyes que rigen la educación especial y las audiencias administrativas (20 USC 1415[f][1][A], 1415[f][3][A]-[D]; 34 CFR 300.511; EC 56501[b][4]);
2. Ser acompañado y aconsejado por un abogado o por individuos que tienen conocimiento de niños con discapacidades (EC 56505 [e][1]);
3. Presentar pruebas y alegatos escritos y orales (EC 56505[e][2]);
4. Confrontar, contrainterrogar y solicitar la presencia de testigos (EC 56505[e][3]);
5. Recibir por escrito o, a elección del padre, un registro electrónico textual de la audiencia, incluyendo un resumen de conclusiones y decisiones (EC 56505[e][4]);
6. Tener a su hijo(a) presente en la audiencia (EC 56501[c][1]);
7. Solicitar una audiencia abierta o cerrada al público (EC 56501[c][2]);
8. Recibir una copia de todos los documentos, incluyendo las evaluaciones completadas a la fecha y las recomendaciones, así como una lista de testigos y su área general de testimonio dentro de los 5 (cinco) días de negocio previos a una audiencia (EC 56505[e][7] y 56043[v]);

9. Ser informado por las otras partes acerca de las cuestiones y su resolución propuesta por lo menos 10 (diez) días naturales antes de la audiencia (EC 56505[e][6]);
10. Contar con la asistencia de un intérprete (CCR 3082[d]);
11. Solicitar una extensión del tiempo límite para la audiencia (EC 56505[f][3]) ;
12. Tener una junta de mediación en cualquier punto durante la audiencia del proceso legal. (EC 56501[b][2]);
13. Recibir notificación de la otra parte por lo menos con 10 (diez) días de anticipación a la audiencia con respecto a que la otra parte tiene la intención de ser representada por un abogado (EC 56507[a]). (20 USC 1415[e]; 34 CFR 300.506, 300.508, 300.512 y 300.515)

Presentar un Reclamo del Proceso Legal por Escrito

¿Cómo puedo solicitar una audiencia del proceso legal?

Usted debe presentar una solicitud escrita para una audiencia de del proceso legal. Usted o su representante deben incluir la siguiente información en su solicitud:

1. Nombre del niño(a);
2. Domicilio del niño(a);
3. Nombre de la escuela a la que asiste el/la niño(a);
4. En el caso de un(a) niño(a) sin hogar, la información de contacto disponible para el niño(a) y el nombre de la escuela a la que asiste; y
5. Una descripción de la naturaleza del problema, incluyendo los hechos relacionados con el/los problema(s) y una solución propuesta para el/los problema(s).

Las leyes federales y estatales establecen que cualquier parte que solicite una audiencia del proceso legal debe proporcionar a la otra una copia de la solicitud escrita. (20 USC 1415[b][7], 1415[c][2]; 34 CFR 300.508; EC 56502[c][1])

Antes de solicitar una audiencia del proceso legal, el distrito escolar debe tener la oportunidad de resolver la cuestión por medio de una sesión de resolución que consiste en una reunión entre los padres y los miembros relevantes del equipo del IEP con conocimientos específicos sobre los hechos identificados en la solicitud de audiencia del proceso legal. (20 USC 1415[f][1][B]; 34 CFR 300.510)

¿Qué incluye una sesión de resolución?

Las sesiones de resolución se deben acordar dentro de los 15 (quince) días siguientes a recibir el aviso de la solicitud de audiencia del proceso legal de los padres. Las sesiones deben incluir a un representante del distrito escolar con autoridad para tomar decisiones, y no a un abogado del distrito escolar a menos que el padre esté acompañado de un abogado. El padre del niño(a) puede discutir la cuestión de la audiencia del proceso legal y los hechos que fundamentan la solicitud de ella.

La sesión de resolución no es necesaria si el padre y el distrito escolar acuerdan por escrito omitir la reunión. Si el distrito escolar no ha resuelto la cuestión de la audiencia del proceso legal dentro de 30 (treinta) días, se puede proceder a realizar esa audiencia. Si se logra una resolución, las partes deben llevar a cabo un acuerdo legalmente obligatorio. (20 USC 1415[f][1][B]; 34 CFR 300.510)

¿La situación de mi hijo(a) cambiará durante los procedimientos?

El/La niño(a) involucrado(a) en cualquier procedimiento administrativo o judicial deberá continuar con su ubicación académica existente a menos que usted y el distrito escolar acuerden otras condiciones. Si usted está solicitando la admisión inicial de su hijo(a) en una escuela pública, el/ella será colocado(a) en un programa de escuela pública con su consentimiento hasta que se completen todos los procedimientos. (20 USC 1415[j]; 34 CFR 300.518; EC 56505[d])

¿Se puede apelar la decisión?

La decisión de la audiencia es definitiva y obligatoria para ambas partes. Cualquier parte puede apelar la decisión de la audiencia presentando una acción civil en un tribunal estatal o federal dentro de los 90 (noventa) días siguientes a la decisión final. (20 USC 1415[i][2] y [3][A], 1415[l]; 34 CFR 300.516; EC 56505[h] y [k], EC 56043[w])

¿Quién paga los honorarios de mi abogado?

En cualquier acción o procedimiento relacionado con la audiencia del proceso legal, el tribunal, a su discreción, puede asignar el pago razonable de los honorarios del abogado como parte de los costos para usted como padre de un niño(a) con discapacidad si usted es la parte prevaleciente en la audiencia. También se puede asignar el pago razonable de los honorarios del abogado después de la conclusión de la audiencia administrativa, con el acuerdo de las partes. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517; EC 56507[b])

Los honorarios se pueden reducir si prevalece cualquiera de las siguientes condiciones:

1. El tribunal encuentra que usted retrasó irracionalmente la solución final de la controversia;
2. Los honorarios por hora del abogado exceden la tarifa prevaleciente en la comunidad por servicios similares de abogados con habilidades, reputación y experiencia razonablemente comparables;
3. El tiempo invertido y los servicios legales provistos fueron excesivos; o
4. Su abogado no proporcionó al distrito escolar la información apropiada en la notificación de solicitud del proceso legal.

Sin embargo, los honorarios del abogado no se reducirán si el tribunal encuentra que el Estado o el distrito escolar retrasó irracionalmente la solución final de la acción o procedimiento, o que hubo una violación a esta sección de la ley. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517)

No se asignará el pago de honorarios del abogado relativas a cualquier reunión con el equipo del IEP a menos que se acuerde una reunión con éste como resultado de una audiencia del proceso legal o una acción judicial. También se puede negar el pago de honorarios del abogado si usted rechaza una oferta de convenio razonable realizada por el distrito o la agencia pública durante los 10 (diez) días anteriores a que comience la audiencia y la decisión de la audiencia no es más favorable que la oferta de convenio. (20 USC 1415[i][3][B]–[G]; 34 CFR 300.517)

Para obtener más información o solicitar una mediación o una audiencia del proceso legal, comuníquese con:

*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*

Disciplina Escolar y Procedimientos de Ubicación para Estudiantes con Discapacidades

Disciplina Escolar y Lugar Provisional Alternativo

¿Podría mi hijo(a) ser suspendido o expulsado?

El personal de la escuela puede considerar cualquier circunstancia única según el caso para determinar si es apropiado realizar algún cambio en la ubicación de un/una niño/a con una discapacidad que viola un código de conducta estudiantil de su establecimiento hacia:

- ❖ Un lugar provisional alternativo apropiado, otro establecimiento o la suspensión durante no más de 10 (diez) días escolares consecutivos; y
- ❖ Mudanzas adicionales de no más de 10 (diez) días escolares consecutivos en el mismo año escolar debido a distintos incidentes de mala conducta.

¿Qué ocurre después de una mudanza de más de 10 (diez) días?

Después de que un(a) niño(a) con una discapacidad se mueve de su ubicación actual por 10 (diez) días escolares en el mismo año escolar, durante cualquier día de mudanza sucesiva, la agencia pública deberá prestar los servicios que permitan al/a la niño/a continuar participando en el curriculum general y avanzar para cumplir las metas establecidas en el IEP del/de la niño(a). Además, un niño debe someterse (según sea apropiado) a una evaluación funcional de conducta, así como recibir los servicios y las modificaciones de intervención de comportamiento diseñados para resolver el mal comportamiento y evitar que sea recurrente.

Si el/la niño/a excede de 10 (diez) días en esa ubicación, se debe efectuar una reunión con el equipo del IEP para determinar si el mal comportamiento del/de la niño(a) es causada por la discapacidad. Esta reunión con el equipo del IEP se debe realizar de inmediato si es posible, o dentro de los 10 (diez) días siguientes a la decisión del distrito escolar para tomar este tipo de acción disciplinaria.

Como padre, usted será invitado a participar como miembro de este equipo del IEP. Podría ser necesario para el distrito escolar desarrollar un plan de evaluación para remediar el mal comportamiento o, si su hijo/a tiene un plan de intervención para su conducta, revisar y modificar el plan conforme sea necesario.

¿Qué sucede si el equipo del IEP determina que el mal comportamiento no es causado por la discapacidad?

Si el equipo del IEP concluye que el mal comportamiento no fue una manifestación de la discapacidad de su hijo(a), el distrito escolar podrá tomar una acción disciplinaria, como lo es la expulsión, de la misma forma en que lo haría para un niño sin discapacidad. (20 USC 1415[k][1] y [7]; 34 CFR 300.530)

Si usted está en desacuerdo con la decisión del equipo del IEP, podrá solicitar una audiencia del proceso legal expedito, que se deberá llevar a cabo dentro de los 20 (veinte) días escolares siguientes a la fecha de su solicitud. (20 USC 1415[k][2]; 34 CFR 300.531[c])

Independientemente del establecimiento, el distrito escolar deberá continuar impartiendo FAPE a su hijo/a. Los lugares provisionales alternativos deben permitir que el/la niño/a siga participando en el curriculum general y asegurar la continuación de los servicios y las modificaciones detallados en el IEP. (34 CFR 300.530; EC 48915.5[b])

Niños que Asisten a Escuelas Privadas

¿Los estudiantes inscritos por sus padres en escuelas privadas pueden participar en los programas de educación especial financiados públicamente?

Los niños inscritos por sus padres en escuelas privadas pueden participar en los programas de educación especial financiados públicamente. El distrito escolar debe consultar con las escuelas privadas y los padres para determinar los servicios que se ofrecerán a los estudiantes de escuelas privadas. Aunque los distritos escolares tienen una clara responsabilidad de ofrecer FAPE a los estudiantes con discapacidades, los niños inscritos por sus padres en escuelas privadas no tienen el derecho de recibir algunos o todos los aspectos de la educación especial y los servicios relacionados necesarios para impartir FAPE. (20 USC 1415[a][10][A]; 34 CFR 300.137 y 300.138; EC 56173)

Si el padre de una persona con necesidades excepcionales que previamente recibió educación especial y servicios relacionados bajo la autoridad de un distrito escolar inscribe a su hijo(a) en una escuela primaria o secundaria privada sin el consentimiento o el referido de la agencia educativa local, el distrito escolar no tendrá la obligación de impartir educación especial si el distrito tenía FAPE disponible. Un tribunal o un funcionario de una audiencia del proceso legal puede requerir que el distrito escolar reembolse al padre o tutor el costo de la educación especial y la escuela privada únicamente si el tribunal o el funcionario de la audiencia del proceso legal encuentra que el distrito escolar no tenía FAPE disponible para el/la niño/a del oportuna antes de esa inscripción en la escuela primaria o secundaria privada y que la ubicación privada es la correcta. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56175)

¿Cuándo se puede reducir o negar el reembolso?

El tribunal o el funcionario de la audiencia puede reducir o negar el reembolso si su hijo/a no está disponible para una evaluación notificada por el distrito escolar antes de retirar a su hijo/a de la escuela pública. También se le puede negar el reembolso si usted no le informó al distrito escolar que rechazaba la ubicación de educación especial propuesta por el distrito escolar, incluyendo la expresión de sus preocupaciones y su intención de inscribir a su hijo(a) en una escuela privada costeadada con dinero público.

Su notificación al distrito escolar se debe entregar ya sea:

- ❖ En la reunión más reciente del equipo del IEP a la que asista antes de retirar a su hijo/a de la escuela pública, o
- ❖ Por escrito al distrito escolar por lo menos 10 (diez) días de negocio (incluyendo días feriados) antes de retirar a su hijo de la escuela pública. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56176)

¿Cuándo no se puede reducir o negar el reembolso?

Un tribunal o el funcionario de una audiencia no debe reducir ni negar el reembolso si usted deja de entregar la notificación por escrito al distrito escolar por cualquiera de los siguientes motivos:

- ❖ La escuela evitó que usted entregara la notificación;
- ❖ Usted no recibió una copia de este Aviso de Garantías Procesales ni fue informado de otro modo sobre el requisito de notificar al distrito;
- ❖ Entregar la notificación posiblemente hubiera causado un daño físico a su hijo/a;
- ❖ El analfabetismo y la incapacidad de escribir en inglés le impidió proporcionar la notificación; o
- ❖ Entregar la notificación posiblemente hubiera causado un grave daño emocional a su hijo/a.

(20 USC 1412[a] [10] [C]; 34 CFR 300.148; EC 56177)

Procedimientos del Estado para Presentar Quejas

¿Cuándo puedo presentar una queja de cumplimiento del estado?

Usted puede presentar una queja de cumplimiento del estado cuando considere que un distrito escolar ha violado las leyes o reglamentos de educación especial federales o estatales. Su queja por escrito debe especificar al menos una violación alegada de las leyes de educación especial federales o estatales. La violación debe haber ocurrido dentro del período de un año anterior a la fecha en que el Departamento de Educación de California (CDE, por sus siglas en inglés) reciba la queja. Cuando presente una queja, debe enviar una copia al distrito escolar al momento de presentarla al CDE. (34 CFR 300.151–153; 5 CCR 4600)

Las quejas por violaciones alegadas de las leyes o reglamentos de educación especial federales y estatales pueden ser enviadas por correo a:

*California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814*

Para quejas que impliquen cuestiones que no estén cubiertas por las leyes o reglamentos de educación especial federales o estatales, consulte los procedimientos de queja correspondientes a su distrito.

Para obtener más información sobre la solución de controversias, incluyendo cómo presentar una queja, comuníquese con el CDE, División de Educación Especial, Servicio de Referidos de Garantías Procesales, por teléfono al (800) 926-0648; por fax al (916) 327-3704 o visite el sitio Web del CDE en <http://www.cde.ca.gov/sp/se>.

GLOSARIO DE ABREVIATURAS UTILIZADAS EN ESTE AVISO

Se proporciona el acrónimo y el término en inglés, seguidos por su traducción:

ADR Alternative Dispute Resolution
Método Alternativo de Resolución de Conflictos

CFR Code of Federal Regulations
Código de Reglamentos Federales

EC California *Education Code*
Código de *Educación de California*

FAPE free appropriate public education
Educación pública apropiada y gratuita

IDEA Individuals with Disabilities Education Act
Ley de la Educación de Individuos con Discapacidades

IEP Individualized Education Program
Programa de Educación Individualizado

OAH Office of Administrative Hearings
Oficina de Audiencias Administrativas

SELPA Special Education Local Plan Area
Área del Plan Local de Educación Especial

USC United States Code
Código de los Estados Unidos

[NOTE TO LOCAL EDUCATIONAL AGENCIES (LEAs): As a form of assistance to LEAs, the California Department of Education (CDE) offers this translation free of charge. Because there can be variations in translation, the CDE recommends that LEAs confer with local translators to determine any need for additions or modifications, including the addition of local contact information or local data, or modifications in language to suit the needs of specific language groups in the local community. If you have comments or questions regarding the translation, please e-mail the Clearinghouse for Multilingual Documents (CMD) at cmd@cde.ca.gov.]

CONFIDENTIALITY OF PUPIL RECORDS

5.1	PURPOSE AND SCOPE	5-1
5.2	PARENT RIGHT TO ACCESS PUPIL RECORDS	5-1
5.3	NOTICES TO PARENTS	5-2
5.4	SAFEGUARDS	5-3
5.5	RELEASE OF INFORMATION FROM PUPIL RECORDS	5-3
5.6	LOG OF REQUESTS FOR INFORMATION	5-3
5.7	AMENDMENT OF RECORDS	5-3
5.8	RETENTION & DESTRUCTION OF PUPIL RECORDS	5-4
	5.8. A. MANDATORY PERMANENT RECORDS	5-4
	5.8. B. MANDATORY INTERIM RECORDS	5-5
	5.8. C. PERMITTED RECORDS	5-6
	5.8. D. DESTRUCTION PROCEDURES	5-6
5.9	CONFIDENTIALITY OF PUPIL RECORDS CONTAINING IQ INFORMATION.....	5-6

PUPIL RECORDS

5.1 PURPOSE AND SCOPE

Local Educational Agencies (LEAs) must establish policies and procedures that ensure the protection of parents' rights related to confidentiality of pupil records. Policies and procedures must be consistent with State and federal laws and regulations, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and corresponding California statutes and regulations, including sections 49060, et seq., of the California Education Code and sections 430, et seq., of Title 5 of the California Code of Regulations. Procedures should describe the required notice to parents, right to access pupil records, record keeping procedures, retention and destruction of pupil records, and requests for amendment of pupil records.

5.2 PARENT RIGHT TO ACCESS PUPIL RECORDS

Unless the disclosure of a particular category of pupil records is specifically exempted by statute, parents have the right to inspect and review all pupil records that relate to their child, including those that address the identification, assessment, and educational placement of the child, and the provision of a free, appropriate public education (FAPE), which are collected, maintained, or used by agency.

Each LEA shall permit parents access to records without unnecessary delay and, in no event, more than five (5) business days after the request has been made either orally or in writing. This includes access to and confidentiality of public records including LEAs educating pupils with disabilities in State hospitals, developmental centers, and youth and adult facilities. The LEA may not charge a fee for retrieval of information. The agency may, however, charge a fee for copies of records, which are made for parents, if the fee reflects the actual cost of reproducing the records and does not prevent the parents from exercising their right to inspect and review these records. In order for the fee to be waived for the actual costs of copying the records, the LEA may require evidence to substantiate waiver of such a fee.

Definition of Access:

Access means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record, or receipt of a copy of a record.

5.3 NOTICE TO PARENTS

Parents must be notified, in writing, of their rights to inspect and review the school records of their children. This must be done at the time of initial enrollment and annually thereafter. To the extent practicable, this notice should be in the home language of the pupil and should include information on policies, procedures, and rights related to record keeping including the Family Educational Rights and Privacy Act of 1974 (FERPA). The notice will contain the following specific information:

- The types of records and information contained therein.
- The position of the official responsible for the maintenance of each type of record.
- The location of the log or record required to be maintained.
- Criteria used by the district to define “school officials and employees” and in determining “legitimate educational interest.”
- The policies of the district for reviewing and expunging records.
- The right of the parent to access pupil records.
- The procedures for challenging the content of pupil records.

The cost, if any, charged to the parent for reproducing copies of records

- The categories of information which the institution has designated as directory information.
- Any other rights stated in the California Education Code and the right to file a complaint with Department of Health, Education and Welfare (FERPA).
- Notice of all locations where copies of the policies and procedures regarding the General Education Provisions Act and confidential pupil records may be obtained.

The right to inspect and review also includes responses to reasonable requests for explanations and interpretations of the records and the right to have a representative of the parent inspect and review the records. (See provision regarding written parental releases.) (EC 49061, 49063)

5.4. SAFEGUARDS

LEAs must protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

Each LEA must maintain for public inspection a current list of names and positions of those employees who have access to personally identifiable information.

5.5. CONSENT TO RELEASE STUDENT RECORDS

1. Written consent must specify the records to be released, identify the party or class of parties to whom records may be released, state the purpose(s) of the disclosure and be signed and dated by the parent or eligible student.)
2. The recipient of the records must be notified that the transmission of information to others without the written consent of the parent is prohibited; however, information may be shared with other persons within the educational institution obtaining access, as long as such persons have a legitimate interest in the information. Each LEA has the right to share information internally among its employees and contractors having a reasonable need for the information.
3. Whenever a pupil reaches the age of 18 years or is attending an institution of post-secondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil. (EC 49061, 49073, 49076)

5.6 LOG OF REQUESTS FOR INFORMATION

All requests of individuals or agencies with the exceptions of “other school officials” indicated above and parents, must be recorded in a record or log of requests for information, except for directory information recipients. The log or record must be open to the inspection by a parent and the school officials or his designee responsible for the maintenance of pupil records and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education and Welfare, and administrative head of an educational agency as defined in PL 93-380, and state educational authorities as a means of auditing the operation of the system.

The log or record must contain the following information: the name of the requesting party and the legitimate interest of the party. The log should be kept with the student's educational records.

5.7. AMENDMENT OF RECORDS

If parents desire to challenge the content of pupil records, they must establish that one of the specific grounds set forth in the Education Code exists and provide a written request to correct or remove the information to the superintendent. If the superintendent declines to amend the pupil record in question, the parents may appeal this decision to the LEA's governing board.

Grounds for amendment include:

- Inaccurate information;
 - Information is unsubstantiated personal conclusion or inference;
 - Information is a conclusion or inference outside the observer's area of competence;
 - Information is not based on personal observation;
 - Misleading information; and/or
 - Information in violation of the privacy or other right of the pupil.
- (EC 49070)

5.8. RETENTION AND DESTRUCTION OF PUPIL RECORDS

No pupil records may be destroyed except pursuant to established District rules and regulations which must comply with the procedure for destruction of records contained in California Code of Regulations, Title 5, sections 16020 and following, or as provided in Education Code sections 49070 (b) and (c) relating to the destruction of records that have been successfully challenged as inaccurate or unsubstantiated.

Prior to destruction of special education records for students with disabilities, the LEA must first contact, or attempt to contact, the parent/guardian, to inform them that the records are no longer needed and will be destroyed, unless the parent wants to keep them. (CFR 300.573) Otherwise the LEA may proceed with destruction.

An agency may not destroy any educational record if there is an outstanding request to inspect or review them. Logs or records of access must be maintained as long as the educational record to which it pertains is maintained.

As documents are received by the records custodian at each site, he or she shall initial them to indicate the type of records involved. There are three types of records: mandatory permanent (MP), mandatory interim (MI), and permitted (P).

After records are classified, they must then be classified for destruction according to the timelines contained in Title 5.

5.8.A. Mandatory Permanent Records

School districts must indefinitely maintain all “mandatory permanent pupil records for students who were enrolled in a school program within the school district. These records include:

- Legal name of pupil
- Date of birth
- Method of verification of date of birth
- Sex of pupil
- Place of birth
- Name and address of a parent of a minor pupil
- Address of minor pupil if different
- An annual verification of the name and address of the parent and residence of the pupil
- Entering and leaving date for each school year and for any summer session or other extra session
- Subjects taken during each year, half-year, summer session or quarter
- If marks or credits are given, the marks or number of credits toward graduation allowed for work taken
- Verification of, or exemption from, required immunizations
- Date of high school graduation or equivalent
- Evidence of pupil's disability and participation in special education program, if applicable

These mandatory permanent records must be forwarded to a requesting school, but the original or copy must be retained permanently.

Mandatory Permanent Records that have been in inactive status for five years shall be microfilmed or copied into a format that may be accessible at a later date.
(5CCR §§ 430, 432)

5.8.B. Mandatory Interim Records are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Mandatory interim pupil records may be destroyed after three

years after a student leaves the school district or their usefulness ceases. These records must be forwarded to all California schools and may be forwarded to other schools. Such records include:

- Access log
- Health records
- Participation in special education programs including required tests, case studies, authorizations and actions necessary to establish eligibility or discharge
- Language training records
- Progress slips and/or notices as required by Education Code Sections 49066 and 49067
- Parental restrictions regarding access to directory information or related stipulations
- Parent rejoinders to challenged records and to disciplinary action
- Parental authorizations or prohibitions of pupil participation in specific programs
- Results of standardized tests administered within the preceding three years (5CCR §§ 430, 432)

5.8.C. Permitted Records

Permitted pupil records has clear importance only to the current educational process of the student. Such records may be destroyed after six months after the student completes or withdraws from the education program. Permitted records include:

- Objective counselor and/or teacher ratings
- Standardized test results older than three years
- Verified reports of relevant behavioral patterns
- All disciplinary notices
- Attendance records not covered in the California Code of Regulation, Title 5 section 400 (records related to ADA or to compulsory education) (5CCR §§ 430, 432)

5.8.D. Destruction Procedures

Destruction of Permitted Records

Permitted pupil records may be destroyed when their usefulness ceases. Notwithstanding the foregoing, special education-related permitted records should ordinarily be retained by an LEA for at least two years after the student ceases to be enrolled in the LEA and may be destroyed thereafter. (5CCR § 437)

Destruction of Mandatory Interim Records

Unless forwarded to another district, mandatory interim pupil records may be retained for at least two years after the student leaves the district or when their usefulness ceases. Destruction shall occur during the third school year following such classification. (5CCR § 437)

5.9 CONFIDENTIALITY OF PUPIL RECORDS

All individually identifiable information is confidential and covered by the rules of access. Essentially all information about the pupil is confidential and access is limited to those school employees with an “educational need to know” and the parent (or student over 18 years of age). Only the parent (or student over 18) may authorize the release of any information.

SPECIAL EDUCATION ELIGIBILITY CRITERIA AND IEP PLANNING GUIDELINES

6.1	PURPOSE AND SCOPE	6-1
6.2	PRIOR TO REFERRAL FOR SPECIAL EDUCATION.....	6-1
6.3	REFERRAL.....	6-2
6.4	ASSESSMENT... ..	6-2
6.5	ELIGIBILITY CRITERIA.....	6-3
6.5. A.	THREE PRIMARY FACTORS MUST BE CONSIDERED.....	6-3
6.5. B.	SPECIAL RULE FOR ELIGIBILITY DETERMINATION.....	6-4
6.5. C.	EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.....	6-4
6.6	ELIGIBILITY CATEGORIES....	6-4
6.6. A.	AUTISM.....	6-4
6.6. B.	DEAF BLINDNESS.....	6-5
6.6. C.	DEAFNESS.....	6-5
6.6. D.	HEARING IMPAIRMENT.....	6-5
6.6.E .	INTELLECTUAL DISABILITY.....	6-5
6.6. F.	MULTIPLE DISABILITIES.....	6-5
6.6. G.	ORTHOPEDIC IMPAIRMENT.....	6-5
6.6. H.	OTHER HEALTH IMPAIRMENT.....	6-6
6.6. I.	EMOTIONAL DISTURBANCE.....	6-6
6.6. J.	SPECIFIC LEARNING DISABILITY.....	6-7
6.6. K.	SPEECH OR LANGUAGE IMPAIRMENT.....	6-11
6.6L.	TRAUMATIC BRAIN INJURY.....	6-12
6.6. M.	VISUAL IMPAIRMENT INCLUDING BLINDNESS.....	6-12

SPECIAL EDUCATION ELIGIBILITY CRITERIA AND IEP PLANNING GUIDELINES

6.1 PURPOSE AND SCOPE

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

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

6.2 PRIOR TO REFERRAL FOR SPECIAL EDUCATION

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

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

A special education referral may be appropriate after interventions have been implemented. As a regular education function, the SST also helps with mainstreaming

strategies for those students who are already are already receiving special education and related services.

6.3 REFERRAL

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

All school staff referrals shall be written and include:

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

6.4 ASSESSMENT

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

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

Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or

mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall:

1. Document this condition and note that the validity may have been affected and;
2. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition.

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

6.5 ELIGIBILITY CRITERIA

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

Eligibility Criteria are separated into thirteen federal classifications. Students need only to meet eligibility under one of these federal classifications. (34 C.F.R., Part 300.8.)

6.5.A. Three Primary Factors Must Be Considered

Three primary factors must be considered in making this determination:

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

6.5.B. Special Rule for Eligibility Determination

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

1. Lack of appropriate instruction in reading, including the essential components of reading instruction.
2. Lack of instruction in math; or
3. Limited English proficiency (EC 56333-56339; 5 CCR 3030; CFR 300.7, 300.534)

6.5.C. Evaluations before Change in Eligibility

1. A LEA shall evaluate a student with a disability before determining that the student is no longer a child with a disability.
2. Exception
 - a. The evaluation shall not be required before the termination of a student's eligibility due to graduation from high school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education. However a Prior Written Notice is required.

6.6 ELIGIBILITY CATEGORIES

In July 2014, California adopted amended regulations to align eligibility criteria with federal regulations. (CCR Title 5, section 3030 and CFR 300.8)

6.6.A. AUTISM (AUT):

1. Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
 - (a) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in subdivision 6.6A (1) of this section.
 - (b) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in subdivision (1) of this section are satisfied.

6.6.B. DEAF-BLINDNESS (DB):

1. 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.

6.6. C. DEAFNESS (DEAF):

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

6.6. D. HEARING IMPAIRMENT (HI):

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

6.6.E. INTELLECTUAL DISABILITY (ID):

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

6.6.F. MULTIPLE DISABILITIES (MD):

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

6.6.G. ORTHOPEDIC IMPAIRMENT (OI):

1. Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, poliomyelitis,

bone tuberculosis, etc.) and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

6.6.H. OTHER HEALTH IMPAIRMENT (OHI):

1. Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that
 - (a.) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and Tourette Syndrome, and
 - (b.) adversely affects a child's educational performance.

6.6.I. EMOTIONAL DISTURBANCE (ED):

1. Emotional disturbance is defined as follows:
 - The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's education performance:
 - 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.
 - A general pervasive mood of unhappiness or depression.
 - A tendency to develop physical symptoms or fears associated with personal or school problems.
 - Emotional disturbance includes schizophrenia.
 - The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

6.6. J. SPECIFIC LEARNING DISABILITY (SLD):

1. 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; SELPA 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 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.

CFR Sec. 300.311 Specific documentation for the eligibility determination.

- A. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in Sec. 300.306(a)(2), must contain a statement of--
 1. Whether the child has a specific learning disability;
 2. The basis for making the determination, including an assurance that the determination has been made in accordance with Sec. 300.306(c)(1);
 3. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
 4. The educationally relevant medical findings, if any;
 5. Whether-- (i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with Sec. 300.309(a)(1); and(ii)
 - (A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with Sec. 300.309(a)(2)(i); or
 - (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with Sec. 300.309(a)(2)(ii);
 6. The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
 7. If the child has participated in a process that assesses the child's response to scientific, research-based intervention--
 - (i) The instructional strategies used and the student-centered data collected; and
 - (ii) The documentation that the child's parents were notified about--
 - (a) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - (b) Strategies for increasing the child's rate of learning; and
 - (c) The parents' right to request an evaluation.
- B. Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group

member must submit a separate statement presenting the member's conclusions.

6.6.K. SPEECH OR LANGUAGE IMPAIRMENT: (SLI):

1. A pupil has a language or speech disorder as defined in Education Code section 56333, and it is determined that the pupil's disorder meets one or more of the following criteria:
 - (a) Articulation disorder
 1. The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.
 2. A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.
 - (b) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.
 - (c) Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.
 - (d) Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:
 1. The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or
 2. 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.

6.6.L. TRAUMATIC BRAIN INJURY (TBI):

1. Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment, problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

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

- Adaptive behaviors
- The IEP Team shall determine that the traumatic brain injury adversely affects educational performance.
- The least restrictive environment shall be considered when determining placement.

6.6.M. VISUAL IMPAIRMENT INCLUDING BLINDNESS (VI):

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

INDIVIDUALIZED EDUCATION PROGRAM & SPECIAL EDUCATION PROGRAMS & RELATED SERVICES

7.1	PURPOSE AND SCOPE	7-1
7.2	INDIVIDUALIZED EDUCATION PROGRAM REQUIREMENTS	7-1
	7.2. A. DEVELOPMENT OF IEP.....	7-1
	7.2. B. CIRCUMSTANCES REQUIRING AN IEP TEAM MEETING.....	7-2
	7.2. C. IEP CONTENT.....	7-3
7.3	IEP TEAM MEMBERS	7-5
	7.3. A. IEP TEAM MEMBER EXCUSAL	7-6
	7.3. B. IF PARENTS CANNOT ATTEND IEP TEAM MEETING	7-6
7.4	LEAST RESTRICTIVE ENVIRONMENT	7-7
7.5	SPECIAL EDUCATION & RELATED SERVICES & DESCRIPTORS	7-9
	7.5. A. SPECIALIZED ACADEMIC INSTRUCTION/ NON-SEVERE/ NON-INTENSIVE	7-9
	7.5. B. SPECIALIZED ACADEMIC INSTRUCTION/ INTENSIVE SERVICES/ SEVERE.....	7-10
	7.5. C. NONPUBLIC, NONSECTARIAN SCHOOL SERVICES.....	7-11
	7.5. D. STATE SPECIAL SCHOOLS	7-11
	7.5. E. NON- PUBLIC SCHOOL AT THERAPEUTIC RESIDENTIAL FACILITY.....	7-11
	7.5. F. HOME & HOSPITAL INSTRUCTION	7-12
7.6	RELATED SERVICES	7-14
	7.6. A. SPEECH & LANGUAGE SERVICES	7-14
	7.6. B. AUDIOLOGICAL SERVICES	7-15
	7.6. C. ORIENTATION & MOBILITY INSTRUCTION.....	7-16

7.6. D.	INSTRUCTION IN THE HOME & HOSPITAL	7-16.
7.6. E.	ADAPTED PHYSICAL EDUCATION	7-17
7.6. F.	OCCUPATIONAL & PHYSICAL THERAPY	7-17
7.6. G.	VISION SERVICES	7-18
7.6. H.	PSYCHOLOGICAL SERVICES.....	7-18
7.6. I.	PARENT COUNSELING & TRAINING	7-18
7.6. J.	HEALTH & NURSING SERVICES	7-19
7.6. K.	SPECIALLY DESIGNED VOCATIONAL EDUCATION & CAREER DEVELOPMENT.....	7-19
7.6. L.	RECREATION SERVICES	7-20
7.6. M.	SPECIALIZED SERVICES FOR LOW INCIDENCE DISABILITIES	7-20
7.6. N.	SERVICES FOR STUDENTS WITH CHRONIC ILLNESS OR ACUTE HEALTH PROBLEMS.....	7-21
7.6. O.	SERVICES FOR DEAF & HARD-OF-HEARING STUDENTS	7-21
7.6. P.	INDIVIDUAL & SMALL GROUP INSTRUCTION	7-22
7.7	REVIEW & REVISION OF THE IEP	7-22
7.7. A.	MAKING CHANGES & AMENDMENTS TO THE IEP	7-22
7.7. B.	IEP TEAM MEETINGS REQUIRED	7-23
7.7. C.	CONSOLIDATION OF IEP MEETINGS.....	7-23
7.8	IEP MEETING PROCESS	7-23
7.8. A.	PRESENT LEVELS OF ACADEMIC ACHIEVEMENT & FUNCTIONAL PERFORMANCE.....	7-23
7.8. B.	INDIVIDUAL TRANSITION PLAN & TRANSITION SERVICES	7-24
7.8. C.	CONSIDERATION OF SPECIAL FACTORS	7-24
7.8. D.	DEVELOPING GOALS.....	7-25

7.8. E.	DISCUSSION OF OPTIONS CONSIDERED	7-26
7.8. F.	SUPPLEMENTARY AIDS & SERVICES	7-26
7.8. G.	DETERMINATION OF SPECIAL EDUCATION & RELATED SERVICES	7-26
7.8. H.	EXTENDED SCHOOL YEAR	7-26
7.9	INDIVIDUALIZED EDUCATION PROGRAMS: TRANSITIONS	7-29
7.9. A.	TRANSITION FROM PRESCHOOL TO ELEMENTARY SCHOOL	7-29
7.9. B.	TRANSITION FROM SPECIAL CLASS OR CENTER OR FROM NON-PUBLIC, NONSECTARIAN SCHOOL TO THE GENERAL EDUCATION CLASSROOM IN THE PUBLIC SCHOOL.....	7-30
7.9. C.	SECONDARY TRANSITION	7-30
7.10	EDUCATIONAL BENEFIT	7-30
7.10. A.	COMPONENTS OF EDUCATIONAL BENEFIT ANALYSIS	7-30
7.10. B.	DEFINITION OF FAPE.....	7-31
7.11	INTERIM PLACEMENTS	7-32
7.11. A.	TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE STATE.....	7-32
7.11. B.	TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE SAME SELPA..	7-32
7.11. C.	TRANSFERS FROM DISTRICT TO DISTRICT FROM OUTSIDE THE STATE.	7-32
APPENDIX A – TRANSPORTATION		7-34
APPENDIX B - EDUCATIONAL BENEFIT CHECKLIST		7-37
APPENDIX C - SAMPLE IEP TEAM MEETING AGENDA/CHECKLIST		7-40
APPENDIX D - ESY CONSIDERATION CHECKLIST		7-42
APPENDIX E - ESY REGRESSION/RECOUPMENT WORKSHEET		7-45
APPENDIX F – CDE OUT-OF-STATE NPS PLACEMENT REPORT		7-46

INDIVIDUALIZED EDUCATION PROGRAM

7.1 PURPOSE AND SCOPE

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

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

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

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

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

7.2 INDIVIDUALIZED EDUCATION PROGRAM REQUIREMENTS

7.2. A. Development of IEP

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

A district administrator or designee will initiate and conduct the meeting for the purpose of developing, reviewing, and revising the IEP of a child with a disability. All efforts will be made to ensure that one or both of the parents of a child, with a disability, are present at each IEP meeting or are afforded the

opportunity to participate. The parent will be notified of the meeting early enough to ensure that they will have an opportunity to attend. The meeting will be scheduled at a mutually agreed upon time and place.

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

7.2. B. Circumstances Requiring an IEP Team Meeting

IEP team meetings are required under a variety of situations. An IEP team meeting must be held:

1. When an initial or subsequent formal assessment has been conducted (including triennials) (E.C. § 56343(a));
2. When a student demonstrates a lack of anticipated progress (E.C. § 56343(b));
3. A teacher requests a meeting to develop, review, or revise the IEP (E.C. § 56343(c));
4. At least annually to review progress, goals, placement and related services, and supplementary aids and services and to make any revisions to the IEP (E.C. § 56343(d));
5. Within 30 days of receiving a request for a meeting from a parent to review and/or revise the IEP (E.C. § 56343.5);
6. Within 30 days of making an interim placement of a student transferring from a district outside of the SELPA into any special education program (E.C. § 56325(a)(1);
7. Following a behavioral emergency (5 C.C.R. § 3052(i)(7);
8. For any change of placement (34 C.F.R. § 300.16); and
9. When a manifestation determination must be made due to student discipline issues (20 U.S.C. 1415(k)(1)(E)(i)(I)).

7.2. C. IEP Content

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

1. A statement of the child’s present levels of academic achievement and functional performance, including:
 - a. how the disability affects the child’s involvement and progress in the general education curriculum;
 - b. for preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities; and
 - c. For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
2. A statement of measurable annual goals, including academic and functional goals designed to:
 - a. Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and
 - b. Meet each of the child’s other educational needs that result from the child’s disability.
3. A description of how the child’s progress toward meeting the annual goals will be measured, and when periodic reports on progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with issuance of report cards) will be provided;
4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:
 - a. To advance appropriately toward attaining the annual goals;
 - b. To be involved in and make progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
 - c. To be educated and participate with other children with disabilities and typically developing peers in the activities described above.

5. An explanation of the extent, if any, to which the child will not participate with typically developing peers in the regular class and extracurricular and nonacademic activities;
6. A statement of any individual appropriate accommodations that is necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.

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

- a. The child cannot participate in the regular assessment; and
 - b. The particular alternate assessment selected is appropriate for the child;
7. The projected date for the beginning of services and modifications, and the anticipated frequency, location and durations of those services and modifications.
 8. Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter:
 - a. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
 - b. The transition services (including course of study) needed to assist the child in reaching those goals; and
 - c. Beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18.

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

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

7.3 IEP TEAM MEMBERS

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

The IEP team shall include all of the following:

1. One or both of the student's parents, a representative selected by a parent, or both
2. Not less than one general education teacher of the student, if the student is, or may be, participating in the general education environment. If more than one general education teacher is providing instructional services to the student, one general education teacher may be designated by the LEA to represent the others. The general education teacher of a student shall, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the student, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student.
3. Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.
4. A representative of the local educational agency who meets all of the following:
 - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.
 - b. Is knowledgeable about the general curriculum.
 - c. Is knowledgeable about the availability of resources of the local educational agency.
5. An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team.
6. At the discretion of the parent, guardian, or the local educational agency, other individuals, who have knowledge or special expertise regarding the student, including related services personnel, as

appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the individualized education program team.

7. Whenever appropriate, the student. The LEA shall invite the student to attend his or her IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals and the needed transition services for the student. If the student does not attend the IEP meeting, the LEA shall take steps to ensure that the student's preferences and interests are considered. (30 EC 56341)

7.3. A. IEP Team Member Excusal

IEP Team Area of Curriculum Not Being Discussed

A member of the individualized education program team shall not be required to attend an IEP team meeting, in whole or in part, if the parent of student and the LEA agree that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

IEP Team Member Area of Curriculum or Related Services Being Discussed

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

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

7.3. B. If Parents Cannot Attend IEP Meeting

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

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

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

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

7.4 LEAST RESTRICTIVE ENVIRONMENT

Definition:

1. 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.
2. Special classes, separate schooling, or other removal of individuals with exceptional needs from the general educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (30 EC 56040.1)

Least restrictive environment (LRE) requirements include the following:

1. The student's placement will be as close as possible to his/her home.
2. Unless the IEP requires some other arrangement, the student will be educated in the school that he or she would attend if not identified with special needs.
3. In selecting the least restrictive environment, consideration will be given to any potential harmful effect on the student or on the quality of services that he/she needs.
4. A student with a disability will not be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.
5. In providing or arranging for the provision of nonacademic and extracurricular services and activities, the district will ensure that the student

with the disability participates with typically developing peers in those services and activities to the maximum extent appropriate to the needs of that student.

6. Special classes may enroll a student only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services, including curriculum modifications and behavioral support, cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of students from the general education environment. (EC 56364, 56364.2; 5 CCR 3042; CFR 300.550)

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

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

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

Specific educational placement means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the individualized education program, in any one or a combination of public, private, home and hospital, or residential settings. (C.C.R., Title 5, Sec. 3042)

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

- General education classroom.
- General education classroom with supplementary aids and services.
- General education classroom with resource specialist services
- General education classroom with related services.
- General education classroom with services from a special education teacher and supports and/or related services.
- Special classes and centers.
- Nonpublic, nonsectarian school services.

- State special schools.
- Residential schools
- Home/ Hospital

7.5 SPECIAL EDUCATION AND RELATED SERVICES AND DESCRIPTORS

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

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

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

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

7.5. A. Specialized Academic Instruction/Non-severe/Non-intensive

Description: Non-intensive services shall provide, but not be limited to, all of the following:

1. Provision of instruction and services for those students whose needs have been identified in an IEP, developed by the IEP Team, and who are assigned to regular classroom teachers for a majority of a school day;
2. Provision of information and assistance to students with disabilities and their parent;

3. Provision of consultation, resource information, and material regarding students with disabilities to their parents and to regular staff members;
4. Coordination of special education services with the regular school programs for each student enrolled in the non-severe, non-intensive program;
5. Monitoring of student progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of students who do not demonstrate appropriate progress to the IEP Team; and
6. Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

7.5. B. Specialized Academic Instruction/ Intensive Services/Severe Description

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

The following standards for special classes shall be met:

Special classes may enroll students only when the nature or severity of the disability of the student is such that education in the regular classes with the use of supplementary aids and services including curriculum modification and behavioral support cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of individuals with disabilities from the general educational environment;

Students in a special class shall be provided with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group;

When the IEP team determines that a student cannot function for the period of time of a regular school day, and when it is so specified in the IEP, a student may be permitted to attend a special class for less time than the regular school day for that chronological peer group.

7.5. C. Nonpublic, Nonsectarian School Services (“NPS/NPA”).

Nonpublic, nonsectarian school" means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the CDE. When a student whose educational needs cannot be met in a public educational program, nonpublic nonsectarian school services shall be made available to the student.

NPS/NPA services shall be provided under contract with the LEA or SCCOE to provide the appropriate special education and related services when no appropriate public education program is available. (See Chapter 11 – Nonpublic Schools)

7.5. D. State Special Schools.

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

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

7.5. E. Nonpublic School at Therapeutic Residential Facility

The IEP team may determine that a student needs a nonpublic school placement at a therapeutic residential facility.

The Individuals with Disabilities Education Act (IDEA) authorizes residential care for students with disabilities in Section 300.104 of Title 34 of the *Code of Federal Regulations (CFR)*:

“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.”

When the IEP team recommends residential placement, it shall document the alternatives to residential placement that were attempted and/or considered and why they were insufficient and/or rejected. It shall also document the student’s educational and mental health treatment needs that support the need for

residential placement. This documentation shall identify the special education and related mental health services to be provided by the residential facility that cannot be provided in a less restrictive environment.

Per California *Education Code* 56365(f), if a local educational agency (LEA) places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the California Department of Education within 15 days of the placement decision. This report includes information regarding special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided. In addition, the report addresses the efforts of the LEA to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state.

(See Appendix F – CDE Out of State NPS Placement Report)

7.5. F. Home and Hospital Instruction

“Home and hospital services” means instruction delivered to children with disabilities, individually, in small groups, or by teleclass, whose medical condition such as those related to surgery, accidents, short-term illness or medical treatment for a chronic illness prevents the individual from attending school. (5 CCR 3065 (j) (1))

Students who are ill for more than 10 school days may require services in a home or hospital setting, as ordered by a physician or psychiatrist. Such recommendation from a physician or psychiatrist must indicate the specified time frame for such service. Such placements should be carefully reviewed to determine the appropriate offer of a free appropriate public education.

CCR 3051.4 Instruction in the Home or Hospital

Special education and related services provided in the home or hospital for school age pupils is limited to those pupils who have been identified as individuals with exceptional needs in accordance with Section 3030 and for whom the individualized education program team recommends such instruction or services.

Instruction may be delivered individual, in small groups or by tele-teaching class.

For those individuals with exceptional needs with a medical condition such as those related to surgery, accidents, short – term illness or medical treatment for a chronic illness, the individualized education program team shall review, and revise, if appropriate, the individualized education program whenever there is a significant change in the pupils' current medical condition.

When recommending placement for home instruction, the individualized education program team shall have in the assessment information a medical report from the attending physician and surgeon or the report of the psychologist, as appropriate, stating the diagnosed condition and certifying the severity of the condition prevents the pupil from attending a less restrictive placement. The report shall include a projected calendar date for the pupil's return to school. The individualized education program team shall meet to reconsider the individualized education program prior to the projected calendar date for the pupil's return to school.

Instruction in the home or hospital shall be provided by a regular class teacher, the special class teacher or the resource specialist teacher, if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction.

CCR 3051.17 Services for Pupils with Chronic Illnesses or Acute Health Problems.

- a. Specialized services may be provided to pupils determined eligible pursuant to Section 303(f). Such services include but are not limited to:
 1. Individual consultation;
 2. Home or hospital instruction; and
 3. Other instructional methods using advance communication technology.
- b. For pupils whose medical condition is in remission or in a passive state, the individualized education program team shall specify the frequency for monitoring the pupil's educational progress to assure that the illness does not interfere with the pupil's educational progress.
- c. When a pupil identified pursuant to Section 303(f) experiences an acute health problem which results in his or her non-attendance at school for more than five consecutive days, upon notification of

the classroom teacher or the parents, the school principal or designee shall assure that an individualized education program team is convened to determine the appropriate educational services.

- d. If there is a pattern of sporadic illness, the individualized education program team shall convene to consider alternative means for the pupil to demonstrate competencies in the required course of study so that the cumulative numbers of absences do not prevent educational progress.

7.6 RELATED SERVICES

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

The only *stand-alone* related services are:

- Speech and language;
- Vocational training;
- Travel training; and
- Adapted Physical Education.

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

7.6. A. Speech and Language Services

The related service in language speech and hearing may include:

1. Specialized instruction and services for students with disorders of language, speech and/or hearing, including monitoring of student progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of students.
2. Consultative services to students, parents, teachers, or other school personnel in the management of a student's language, speech development, or hearing needs.
3. Coordination of speech and language services with a student's regular and special education program.
4. The person providing instruction and services shall hold an appropriate credential with specialization in language, speech and hearing

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

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

7.6. B. Audiological Services

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

1. Aural rehabilitation (auditory training, speech reading, language habilitation and speech conservation) and habilitation with individual students or groups and support for the hearing-impaired students in the regular classroom.
2. Monitoring hearing levels, auditory behavior, and amplification for all students requiring personal or group amplification in the instructional setting.
3. Planning, designing, organizing and implementing an audiology program for individuals with auditory dysfunction, as specified in the IEP.

4. Consultative services regarding test findings, amplification needs and equipment, ontological referrals, home training programs, acoustic treatment of rooms, and educational management of the hearing-impaired individuals.
5. The person providing audiological services shall hold a valid credential with a specialization in clinical or rehabilitative services in audiology.

7.6. C. Orientation and Mobility Instruction

Related services in orientation and mobility may include the following:

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

7.6. D. Instruction in the Home and Hospital

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

1. Instruction and services for individuals with disabilities whose physical condition requires their confinement for prolonged periods of time and who require long-term instruction at home or in a hospital. The IEP team must recommend this service.
2. Instruction and service for individuals with disabilities, whose disability restricts their capability to attend school, and whose instructional goals include both academic and rehabilitative services. This service must be recommended by the IEP team and is regarded as an interim placement.

3. One (1) hour of home/hospital instruction is the equivalent of a full day of ADA, and that a typical home/hospital instruction is 1 hour per day. However, the amount of instruction time must be based upon a student's needs, and may be fewer or greater than 60 minutes per day.

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

7.6. E. Adapted Physical Education (APE)

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

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

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

7.6. F. Occupational Therapy (OT) and Physical Therapy (PT)

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

1. Occupational or physical therapists shall provide services based upon recommendation of the IEP Team. Physical therapy services may not exceed the services specified in the Business and Professions Code at Section 2620.
2. The LEA or SCCOE shall assure that the therapist has available safe and appropriate equipment.
3. A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the

educational standards of the Physical Therapy Examining Committee.

4. An occupational therapist shall be currently registered with the American Occupational Therapy Association.

7.6. G. Vision Services

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

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

7.6. H. Psychological Services

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

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

7.6. I. Parent Counseling and Training

Parent counseling and training may include:

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

7.6. J. Health and Nursing Services

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

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

7.6. K. Specially Designed Vocational Education and Career Development

Personnel providing vocational education services shall be qualified.

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

1. Providing prevocational programs and assessing work-related skills, interest aptitudes, and attitudes;
2. Coordinating and modifying the regular vocational education program;
3. Assisting students in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community;
4. Establishing work training programs within the school and community;
5. Assisting in job placement;
6. Instructing job trainers and employers as to the unique needs of the students;

7. Maintaining regularly scheduled contact with all workstations and job-site trainers; and
8. Coordinating services with the Department of Rehabilitation, the Department of Employment Development and other agencies as designated in the IEP.

7.6. L. Recreation Services

Recreation services include but are not limited to the following:

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

7.6. M. Specialized Services for Low Incidence Disabilities

Specialized services for low incidence disabilities may include:

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

3. Services will be provided by appropriately credentialed teachers.

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

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

1. Individual consultation;
2. Home or hospital instruction; and
3. Other instructional methods using advanced communication technology.

7.6. O. Services for Deaf and Hard of Hearing Students

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

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

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

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

7.6. P. Individual and Small Group Instruction

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

7.7 REVIEW AND REVISION OF THE IEP

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

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

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

The following should be included in a review

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

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

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

7.7. A. Making Changes and Amendments to the IEP

In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree not to convene an IEP meeting for the purposes of

making those changes, and instead may develop a written document, signed by the parent and by a representative of the local educational agency, to amend or modify the student's existing IEP.

***Best Practice** -NSCC SELPA recognizes that best practice is to hold an IEP Team meeting with the parent(s) to document changes/amendments to the IEP document.*

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

7.7. B. IEP Team Meetings Required

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

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

7.7.C. Consolidation of IEP Meetings

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

7.8 IEP MEETING PROCESS

7.8. A. Present Levels of Academic and Functional Performance

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

7.8. B. Individual Transition Plan (ITP) and Transition Services

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

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

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

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

Beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18. (See Chapter 8 – Secondary Transition)

7.8. C. Consideration of Special Factors

The IEP team will consider the following special factors:

Behavioral

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

Students with Limited English Proficiency

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

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

Blind and Visually Impaired

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

Deaf and Hearing Impaired

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

Assistive Technology

Consider whether a child requires assistive technology devices and services.

If, in considering the above special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive a free and appropriate public education, the IEP team must include a statement to that effect in the child's IEP. (See Chapter 15 Resources for Assistive Technology Guidelines)

7.8. D. Developing Goals

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

- Baseline (related to goal)
- Who (the child)
- Does what (measurable behavior)
- When (reporting date)
- Given what (conditions)
- How much (mastery criteria)
- How measured (performance data or assessment)

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

7.8. E. Discussion of Options Considered

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

7.8. F. Supplementary Aids and Services

Supplementary aids and services means aids, services, and other supports that are provided in general education classes or other education-related settings and in extracurricular and nonacademic settings, to enable individuals with exceptional needs to be educated with nondisabled children to the maximum extent appropriate. (EC 56033.5)

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

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

Supplementary aids and services must specify the duration and frequency needed for the child.

7.8. G. Determination of Special Education and Related Services

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

7.8. H. Extended School Year (ESY)

ESY means the period of time between the close of one academic year and the beginning of the next academic year. ESY services must be provided for each

individual with exceptional needs who requires special education and related services in excess of the regular academic year, as determined by the IEP team. These students are typically those who have disabilities that will continue indefinitely, or for a prolonged period, and for whom interruption of the educational program may cause regression with limited recoupment capacity. Generally, such students are placed in special classes but other students may also require ESY.

(E.C. § 56345(b)(3) and 34 C.C.R. § 3043)

What ESY Is:

- An exception, not a rule
- Based on the student's unique needs that are critical to overall educational progress as determined by the IEP team
- Designed to maintain student mastery of critical skills and IEP objectives achieved during the regular school year
- Designed to maintain a reasonable level of readiness to begin the next year
- Focused on specific critical skills where regression coupled with limited recoupment due to extended time off, may occur without ESY

What ESY Is Not

- A mandated service for all students with disabilities
- Respite care or a summer recreation program
- Designed 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.
- Required if listed on the IEP; parents may choose to refuse the ESY
- Designed to help students with disabilities advance in relation to their peers or to provide education beyond what is in the IEP
- Intended for students who exhibit random regression solely related to transitional life situations or medical problems
- Subject to the same LRE considerations as during the regular school year because the same LRE options are not always available.
- Designed for making up for poor attendance during regular school year or as the primary means for credit recovery for classes failed during the regular school year

When to Consider ESY

When determining if a student requires an ESY program, the IEP team should consider whether:

1. The nature and/or severity of the student's disability prohibits the student from receiving benefit from his or her educational program during the subsequent year without ESY services;
2. There is documentation that a significant regression in critical life skills and/or difficulty in recovering (recoupment) those skills within a reasonable period of time (eight weeks) will occur in the subsequent year without ESY services; and
3. There is documentation that a significant increase in the frequency, duration, or intensity of interfering behaviors (e.g., stereotypic, ritualistic, aggressive, self-injurious) that will reduce the student's ability to benefit from his or her educational program during the subsequent year will occur without ESY services.

The severity of the disability is a primary consideration in determining eligibility for ESY. The IEP team should consider the student's age, severity of the disability, presence of medically diagnosed health impairments, attainment of self-sufficiency, and development of an emerging, critical skill that will be lost due to interruption. Other factors to consider are regression rate and recoupment time in relation to normal rates, behavioral and physical problems, curricular areas that would be adversely impacted, and vocational needs.

Definition: Regression/Recoupment

All students experience some regression and loss over an extended break. In most instances these skills are re-mastered (recouped) within a reasonably short period of time. However, some special needs students have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the student's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition. However, the lack of clear evidence of such factors may not be used to deny a student an ESY program if the team determines the need for ESY programming. Thus, when a student experiences more than minimal regression and he/she is not able to recoup skills within a short period of time the provision of a free appropriate public education means that instruction and/or related services must also be provided during an extended break.

Data Collection

When considering ESY for any student, the IEP must consider data collected during the previous year(s) to determine the student's need based on items 1 through 3 above. This decision should be based on multiple factors, although there may be rare instances where the IEP team might consider ESY services based

on a single criterion. Data collection may be in the form of teacher observations, informal and formal tests, benchmark measures, running records, progress toward IEP goals, etc. If the student has continued to progress educationally from year to year despite the lack of ESY programming, ESY may not be necessary to ensure FAPE. Sample data collection worksheets are included as appendices. (Appendices D and E)

Legal Requirements for Operation of ESY

An ESY program must be provided for a minimum of 20 instructional days, including holidays. For reimbursement purposes, a maximum of 55 instructional days, excluding holidays, shall be allowed for students with severe disabilities and 30 instructional days, excluding holidays, for all other eligible students. In order to qualify for average daily attendance revenue, ESY must be provided for the same length of time as for general education students at the same age level who are attending summer school in the district in which the ESY is provided and not less than the minimum school day for that age unless otherwise specified in the IEP. Additionally, the special education and related services offered during ESY must be comparable in standards, scope, and quality to the special education program offered during the regular academic year. Integration in the general education classroom, if specified on the IEP, is not required during ESY if the district operating the ESY does not offer a regular summer school program.

(34 C.C.R. § 3043(d-h))

(See Appendices D and E Worksheets– ESY Consideration and ESY Regression/Recoupment)

7.9 INDIVIDUALIZED EDUCATION PROGRAM: TRANSITIONS

7.9. A. Transition from Preschool to Elementary School

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

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

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

7.9. B. Transition from Special Class or from Nonpublic, Nonsectarian School to the General Education Classroom in the Public School

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

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

7.9. C. Secondary Transition (See Chapter 8 – Secondary Transition)

Beginning no later than the first IEP to be in effect when the child is 16, and updated annually thereafter. The IEP for students 16 years or younger, if appropriate must contain:

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

7.10 EDUCATIONAL BENEFIT

Board of Education v. Rowley 1982 was decisive in defining the term *educational benefit*. The Supreme Court concluded that the IDEA does not require that LEAs maximize the potential of students with disabilities. The intent of the IDEA was more to open the door of public education to students with disabilities rather than guarantee any particular level of education once inside. FAPE and LRE become our guideposts decided and analyzed individually to ensure the child is receiving a basic floor of opportunity and “**educational benefit.**”

7.10. A. Components of Educational Benefit Analysis

Based on procedural requirements, including:

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

Every annual review should be written with this analysis. When done over a period of years, you have a comprehensive analysis and rationale for the IEP team recommendations over time. Assuming the IEPs are implemented fully and in compliance, you then have a long term record of the success of a carefully planned and implemented special education program for the student. This process provides proof positive of individual educational benefit.

When districts participate in a California Department of Education review process, an educational benefit analysis is conducted with several student records. Additionally when individual districts are selected for State-required Verification Reviews which includes CDE participation, the same educational benefit analysis is conducted by CDE review team.

7.10. B. Definition of FAPE

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

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

The Supreme Court established two criteria in determining FAPE

1. Have the procedures been adequately complied with (compliance) and
2. Is the IEP reasonably calculated to enable the child to receive educational benefit?

IDEA (Individuals with Disabilities Education Improvement Act) of 2004 gave us further conceptual refinements:

1. High expectations for all children;
2. Ensuring access to the general education curriculum and standards in the general classroom, to the maximum extent possible;
3. Preparing children with disabilities to lead productive and independent adult lives; and
4. Providing effective transition services to promote successful post-school employment or education.

(See Appendix B – Educational Benefit Checklist)

7.11 INTERIM PLACEMENTS

7.11. A. Transfers from District to District within the State

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

7.11. B. 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 same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless the parent and the LEA agree to develop, adopt and implement a new IEP that is consistent with federal and state law. It is recommended that an IEP Amendment be completed to reflect the change in location and provider.

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

If the child has an IEP and transfers from an educational agency outside the state to a district within the state within the same academic year, the LEA shall provide the pupil with a free appropriate public education, including services

comparable to those described in the previously approved IEP, in consultation with the parents, until the LEA conducts an assessment

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

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

Appendix A – Transportation

Appendix B – Educational Benefit Checklist

Appendix C – Sample IEP Team Meeting Agenda/Checklist

Appendix D – ESY Consideration Checklist

Appendix E – ESY Regression/Recoupment Worksheet

Appendix F – CDE Out of State NPS Placement Report

TRANSPORTATION GUIDELINES

Definition of Special Education Transportation

Special education transportation is defined in federal regulations (34 C.F.R. § 300.24) as a related service. As a related service, transportation must be provided if it is necessary for the student to benefit from special education instruction and to receive FAPE. There are two types of special education transportation defined in California Education Code.

1. "Special education transportation" is defined as, "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" (E.C. 41850(d)).
2. "Home-to-school transportation" is defined as, "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)" (EC 41850(b)(5)).

Eligibility for Special Education Transportation

Based upon the education codes cited above, the IEP team must determine if a student meets one of the following criteria in order to be eligible to receive transportation as part of the IEP:

1. Has a severe disability and is enrolled in special day class for students with severe disabilities;
2. Has an orthopedic impairment and requires a vehicle with a wheelchair lift;
3. Has any special needs that cause problems in getting to school in the same manner as non-disabled students (e.g., health, behavioral, capacity to avoid dangerous situations);
4. Lives beyond a reasonable distance to his or her school and would not, without transportation, have access to appropriate special education instruction and related services at no cost;
5. Has other transportation needs such as mid-day trips to another site for occupational or physical therapy, mental health services, or community-based instruction.

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 might lead to program compliance concerns. Students 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 student 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 students within the general education program due to extracurricular events, provisions for equal opportunity to these events for pupils with exceptional needs who require special transportation must also be made.

Special Education Transportation Options

Special education transportation options may include, but are not limited to the following:

1. Regular school bus with or without accommodations (e.g., student is typically picked-up at a designated "bus stop", delivered to the student's assigned school, and returned to a designated "bus stop");
2. Special education bus (e.g., student is picked-up at home or day care, delivered to assigned school, and returned to home or day care);
3. Public transportation with a reimbursement of the cost to the parents or direct payment by the school district; and
4. Parent transportation with a reimbursement for mileage.

For safety purposes when transportation is being provided between home and school on a public school bus, the road that the home is located on must be of appropriate width to allow two-way traffic or have sufficient turnouts to allow safe passage and must be maintained in reasonably good condition. Driveways shall have adequate turn-around space at all times and shall allow adequate visibility for safe entrance and exit of the school bus. If it is determined that there are unsafe conditions, an IEP team will be convened to discuss options.

The IEP should specify the type of special education transportation that the IEP team has agreed will be appropriate for the student.

Participation of Transportation Staff in IEP Team Meetings

The case manager should invite transportation staff to participate in IEP team meetings when the student needs the use of adaptive or assistive equipment, when school bus equipment is required to be modified, when the student exhibits severe behavioral difficulties and a behavior intervention plan is to be implemented on the bus, when the student is medically fragile and requires special assistance, or when the student has other unique needs.

Initiating, Changing, or Canceling Transportation Services

Each LEA is responsible for establishing procedures for initiating, changing, or canceling special education transportation services. These procedures must be designed to respond to the requested action in a timely manner in order to prevent denial of FAPE.

Significant Health Issues

If a student who is eligible for special education transportation has significant health needs of which the bus driver needs to be aware (severe asthma, seizures, hemophilia, etc.), this will be noted on the transportation request. Appropriate health care professionals (e.g. school nurse) will submit an emergency protocol to the LEA's transportation department, if required, and the bus driver will be provided with a copy of the emergency protocol. In the event of a health emergency, the driver will follow the protocol established by the LEA.

Discipline

Each LEA is responsible for establishing appropriate procedures for disciplining students receiving special education transportation who violate bus rules, particularly safety rules. If a student repeatedly violates bus rules, an IEP meeting should be held with parent, transportation personnel, site administrator, teachers and a representative from the LEA. During this meeting, if the student has a behavior intervention plan, the team will review the plan and revise it as necessary. If the student does not have a behavior intervention plan, the team will consider whether one is needed and, if so, develop the plan. Some suspension from the bus may be considered at this time.

There may be times when a student may be suspended from special education transportation services (E.C. § 48900-48900.7). Although a student with disabilities can be suspended from special education transportation services, the student cannot be denied transportation on a permanent basis; an alternative form of transportation must be provided if special education transportation is specified on the IEP (E.C. 48915.5(c)).

(Portions of this section are based upon information provided in the *Special Education Transportation Guidelines* published by the California Department of Education.)

Educational Benefit Checklist

STUDENT: _____ IEP DATE: _____

IDENTIFYING INFORMATION

- ☐ Is all of the information complete and correct?
- ☐ How will the manager of the school MIS system be informed of the changes?
- ☐ Does the IEP clearly specify the child's disability(s)?
- ☐ Did the IEP team identify how the child's disability affects his or her involvement and progress in the general curriculum or participation in appropriate activities for the preschool child?

TRANSITION

- ☐ Is the transition plan developed in accordance with the student's post-school preferences, interests, and goals?
- ☐ Are there measurable postsecondary goals, based on age appropriate transition assessments, that address education/training, employment, and where appropriate, independent living skills?
- ☐ Are appropriate transition services (including courses of study) and responsible persons/agencies specified?
- ☐ Are the transition services designed to be within a results-oriented process that is focused on improving academic and functional achievement of the student?
- ☐ Are additional vocational and/or transition assessments required?
- ☐ Is the transition plan designed to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living and community participation?

PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

- ☐ Are the student's strengths, preferences, and interests clearly identified?
- ☐ Are the concerns of the parent identified?
- ☐ Are all sections of the Present Levels of Academic Achievement and Functional Performance addressed, including documentation of "no concerns noted at this time?"
- ☐ Does this clearly reflect the student's performance in the educational setting?
- ☐ Do the Present Levels of Academic Achievement and Functional Performance reflect all needs identified in the assessments?

SPECIAL FACTORS

- ☐ Has the IEP Team addressed all the special considerations the student may require?
- ☐ Does the student demonstrate behavior(s) that impede learning, and if so, how will positive behavior interventions, strategies, and supports be provided?
- ☐ Does the IEP Team agree on the areas of need to be addressed in goals as identified in the

- ☐ Present Levels of Academic Achievement and Functional Performance and in Special Factors?
- ☐ Is participation on state and district-wide assessments, including accommodations and
- ☐ modifications, in accordance with state guidelines?
- ☐ Are alternate assessment(s), including the reasons, clearly noted if required?

GOALS, INCLUDING BENCHMARKS OR OBJECTIVES (AS APPROPRIATE)

- ☐ Are there goals and objectives/benchmarks (if appropriate) for each area of need and vice versa?
- ☐ Are the goals and objectives/benchmarks measurable?
- ☐ Do the goals and objectives/benchmarks enable the student to be involved/progress in the general curriculum?
- ☐ Are all other educational needs resulting from the disability addressed?
- ☐ If the student is an English Learner, are the goals and objectives/benchmarks linguistically appropriate?
- ☐ Is the person(s) primarily responsible for implementing the goals and objectives/benchmarks, and monitoring progress identified?

SPECIAL EDUCATION AND RELATED SERVICES

- ☐ Was the determination of the appropriate supplementary aids and services, and special education and related services completed after the goals were finalized?
- ☐ Are the appropriate services identified to support progress toward all goals including: progress in the general curriculum, participation in extracurricular activities, and other nonacademic activities?
- ☐ Are the special education, related services, and supplementary aids and services based on peer-reviewed research to the extent practicable?
- ☐ Are the start/end dates, provider, frequency, duration, and location specified for supplementary aids and services as well as special education and related services?

EDUCATIONAL SETTING

- ☐ Is there a clear description of the location of services, including why some services may not be provided at the child's school of residence, if appropriate?
- ☐ Is there a clear description of the amount of time the student is outside the general education environment, including an explanation of why the student will not participate in general education for all or part of the day?
- ☐ If appropriate, are the activities clearly identified to support transition from preschool to kindergarten, from special education and/or NPS to general education, 8th – 9th grade, etc?
- ☐ If appropriate, is the graduation plan identified for students Grade 8 or higher?

SIGNATURES

- ☐ Did all IEP Meeting participants sign and date, if required?
- ☐ Do the parent(s) consent to all components of the IEP?

- ☐ If not, are areas of agreement and/or disagreement clearly specified?
- ☐ Are the next steps identified for reaching resolution, if appropriate?

IEP TEAM MEETING COMMENTS

- ☐ Is this information a summary of the meeting?
- ☐ Does everyone agree that the information accurately reflects what was discussed and the agreements that were made?
- ☐ Are next steps clearly identified, including individuals responsible, if needed?

Sample IEP Team Meeting Agenda/Checklist

Activity	Who
<u>Opening</u>	
<input type="checkbox"/> Welcome and introduce everyone	CM or LEA Rep
<input type="checkbox"/> Explain purpose and procedure	CM or LEA Rep
<input type="checkbox"/> Provide & explain <i>Notice of Procedural Safeguards</i> (NC 1)	CM or LEA Rep
<input type="checkbox"/> Set agenda/time limits	CM or LEA Rep
<input type="checkbox"/> Review demographic information for accuracy (IEP 1)	CM or LEA Rep
<input type="checkbox"/> Discuss student's strengths (IEP 2)	IEP Team
<input type="checkbox"/> Elicit parent concerns (IEP 2)	CM or LEA Rep
<u>Assessment Results and Eligibility*</u>	
<input type="checkbox"/> Review assessment results	Assessors
<input type="checkbox"/> Address and record eligibility (IEP 2)	IEP Team
<input type="checkbox"/> Identify areas of need related to disability (IEP 2)	IEP Team
<u>Present Levels/Goals & Objectives</u>	
<input type="checkbox"/> Review and present levels of achievement/performance	IEP Team
<input type="checkbox"/> Review and update previous goals and objectives	IEP Team
<input type="checkbox"/> Revise previous and/or develop new goals and objectives	IEP Team
<u>Participation in District & Statewide Assessments (IEP 4)</u>	
<input type="checkbox"/> Identify appropriate test (CST, CMA, CAPA) and method of administration	IEP Team
<input type="checkbox"/> Identify method of administration for CAHSEE (when grade appropriate)	IEP Team
<input type="checkbox"/> Identify method of administration for CELDT (for English Learners only)	IEP Team
<input type="checkbox"/> Specify any other district/statewide assessments & method of administration	IEP Team
<u>Instructional Settings and Supports (IEP 5)</u>	
<input type="checkbox"/> Discuss and identify percentage of participation in general education	IEP Team
<input type="checkbox"/> Identify any needed instructional accommodations	IEP Team
<input type="checkbox"/> Identify any needed assistive technology and/or low incidence equipment	IEP Team
<input type="checkbox"/> Specify promotion/retention standard and (8 th grade and up) graduation plan	IEP Team
<u>Special Considerations (IEP 6A through 6I)</u>	
Discuss and complete any special consideration forms, as needed:	
<input type="checkbox"/> IEP – <i>Supplemental Instruction</i> (IEP 6A)	IEP Team
<input type="checkbox"/> IEP – <i>Postsecondary Transition Plan</i> (IEP 6B)	IEP Team
<input type="checkbox"/> IEP – <i>Program Change Transition Plan</i> (IEP 6C)	IEP Team
<input type="checkbox"/> IEP – <i>Preschool to Elementary School Transition Plan</i> (IEP 6D)	IEP Team
<input type="checkbox"/> IEP – <i>Determination of Need for Functional Analysis Assessment</i> (IEP 6E)	IEP Team
<input type="checkbox"/> IEP – <i>Escalation Cycle Management Plan or Interim BIP</i> (IEP 6F)	IEP Team
<input type="checkbox"/> IEP – <i>Behavior Intervention Plan (BIP)</i> (IEP 6G)	IEP Team
<input type="checkbox"/> IEP – <i>Manifestation Determination</i> (IEP 6H)	IEP Team
<input type="checkbox"/> IEP – <i>Grade Retention Consideration</i> (IEP 6I)	IEP Team

Special Education and Related Services (IEP 7)

- | | | |
|--------------------------|-----------------------------------------------------------------|---------------|
| <input type="checkbox"/> | Explain special education and related service options | CM or LEA Rep |
| <input type="checkbox"/> | Consider special education and related service options | IEP Team |
| <input type="checkbox"/> | Offer appropriate special education and related service options | CM or LEA Rep |

Supplementary Aids, Services, ESY (IEP 8)

- | | | |
|--------------------------|----------------------------------------------------------------------------|---------------|
| <input type="checkbox"/> | Identify any needed supports for school personnel or program modifications | IEP Team |
| <input type="checkbox"/> | Offer any needed supports for school personnel or program modifications | IEP Team |
| <input type="checkbox"/> | Identify any special education transportation to be provided | IEP Team |
| <input type="checkbox"/> | Discuss options for how physical education will be provided | IEP Team |
| <input type="checkbox"/> | Specify how physical education will be provided | CM or LEA Rep |
| <input type="checkbox"/> | Discuss whether ESY is needed | IEP Team |
| <input type="checkbox"/> | Specify ESY services that are being offered, if needed | CM or LEA Rep |

IEP Notes/Additional Information (IEP 12)

- | | | |
|--------------------------|------------------------------------------------------|---------------|
| <input type="checkbox"/> | Record any important notes or additional information | CM or LEA Rep |
| <input type="checkbox"/> | Review contents of notes with parent | CM or LEA Rep |

Signatures (IEP 9)

- | | | |
|--------------------------|-------------------------------------------------------------------|---------------|
| <input type="checkbox"/> | Ask parent to check all appropriate acknowledgements and requests | CM or LEA Rep |
| <input type="checkbox"/> | Obtain parental consents | CM or LEA Rep |
| <input type="checkbox"/> | Obtain signatures of all IEP team members | CM or LEA Rep |

Closure

- | | | |
|--------------------------|---------------------------------------------------------------------------|---------------|
| <input type="checkbox"/> | Answer any parent/student questions | IEP Team |
| <input type="checkbox"/> | Provide contact names and numbers | CM or LEA Rep |
| <input type="checkbox"/> | Explain any future procedures | CM or LEA Rep |
| <input type="checkbox"/> | Enter any revisions/corrections into IEP | Case Manager |
| <input type="checkbox"/> | Print and distribute completed forms to parents and all service providers | CM or LEA Rep |
| | Adjourn meeting | |

Follow-Up

- | | | |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <input type="checkbox"/> | Affirm IEP events, submit electronic and hard copies of all related events and forms to LEA office according to LEA procedures | CM and/or LEA Rep |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------|

* When initial, triennial, or other assessment has been conducted. Eligibility should be addressed at initials, triennials, interim placement reviews

ESY CONSIDERATION WORKSHEET

Note: Use this worksheet with the ESY Checklist if the team feels it is needed

1. The student demonstrates a pattern of past regression as evidenced by breaks of more than four weeks: ☐ Yes ☐ No ☐ Unknown

Comments (describe the degree (minimal or serious) of actual or likely regression following a school break:

2. What is the estimated amount of time it takes or it may take the student to regain the prior level of knowledge skills, benefits or functioning following a school break:

☐ One month or less ☐ Up to 3 months ☐ 4 to 6 months

☐ Other _____

Comments: _____

3. Describe the student's rate of learning (as compared with the student's ability to recoup skills after a break):

4. Does the IEP team feel the student's disability will continue indefinitely or for a prolonged period of time? ☐ Yes ☐ No ☐ Unsure

Describe the degree, nature and severity of the student's disability:

5. Does the IEP team feel it will be impossible or unlikely the student will attain self-sufficiency and independence expected in view of his/her disability following a break? ☐ Yes ☐ No ☐ Unsure

6. Is the student at a critical point of skill acquisition or readiness, and his/her ability to acquire the skills will be lost or greatly reduced as a result of: (a) an interruption of services; and/or (b) by an escalation of previously reduced behaviors?

☐ Yes ☐ No ☐ Unsure

If yes, describe:

7. Are there other issues concerning the student’s physical, medical condition, emotional, social, behavioral, mental health, family, academic and/or vocational issues, and his/her ability to be with typically developing peers that may be adversely impacted if the student does not receive ESY services?

☐ Yes ☐ No ☐ Unsure

If yes, describe: _____

Extended School Year (ESY) Regression/Recoupment Capacity Worksheet

Chapter 7 Appendix E

Student Name _____ School _____ Age _____ Grade _____ Date _____

Primary Disability _____ Education Placement _____ DIS Services _____

Current IEP: Date: _____ Assessment Area:	Pre-Break Present Levels of Performance Date: _____ (Describe levels based on measurable data- prior to an academic break of 2 weeks or more.) If additional space is needed, include attachments.	Post –Break Present Levels of Performance Date: _____ (Describe levels based on measurable data- after returning from break.) If additional space is needed, include attachments.	*Regression/ Recoupment If regression is noted, record the time required to recoup Pre-Break levels (i.e. 4 days, 2 weeks...).	ESY Recommended Yes/No ESY is recommended in noted areas below based on regression and recoupment data.
Communication				
Reading				
Written Expression				
Math				
Behavior				
Fine Motor				
Gross Motor				
Self Help				
Social Emotional				
Other:				

**Reporting of Out-of-State Nonpublic, Nonsectarian
School and Agency Placement
California Education Code 56365(f)**

This report is required to be submitted within 15 days of the placement decision to:

Interagency-Nonpublic Schools/Agencies Unit

Special Education Division

California Department of Education

1430 N Street, Suite 2401

Sacramento, CA 95814

Phone 916-327-0141 FAX: 916-327-5233

1.	Placing Agency:	
	Address:	
	City:	State: Zip:
	Contact Person (Print Full Name):	Telephone:
	Signature:	
2.	Student ID# :	Birth Date:
3.	Name of Out-of-State School/Agency:	
	Is the Program California-Certified? Yes ____ No ____ (A waiver is required for noncertified programs.)	
	Address:	
	City:	State: Zip:
	Contact Person (Print):	Telephone:
4.	Date of Placement:	For School Year(s):
	Anticipated Date of Return to a California Placement:	
5.	Out-of-State Pupil Placement and Costs Report costs by school year (example 2009-10; 2010-11) NOTE: (Continue on reverse. Use additional sheets, if necessary.)	
	4 Check appropriate box	
	FULL DAY, nonpublic, nonsectarian SCHOOL placement	Contract Cost:
	PARTIAL DAY, nonpublic, nonsectarian SCHOOL placement	Contract Cost:
	RESIDENTIAL, nonpublic, nonsectarian SCHOOL placement (Use only if your agency is paying residential costs.)	Contract Cost:
	FULL DAY, nonpublic, nonsectarian AGENCY placement	Contract Cost:
	PARTIAL DAY, nonpublic, nonsectarian AGENCY placement	Contract Cost:

5.	Out-of-State Pupil Placement and Costs (continued).
6.	Related Services. List and identify cost of related service(s). Use additional sheets, if necessary.
7.	Describe the efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination, thereof, within the State of California.

SECONDARY TRANSITION

8.1	PURPOSE AND SCOPE	8-1
8.2	DEFINITION OF TRANSITION SERVICES	8-1
8.3	TIMELINE FOR DEVELOPING INDIVIDUAL TRANSITION PLAN	8-2
8.4	TRANSITION AREAS TO BE ASSESSED	8-2
	8.4. A. INSTRUCTION	8-2
	8.4. B. RELATED SERVICES	8-2
	8.4. C. COMMUNITY EXPERIENCES	8-2
	8.4. D. EMPLOYMENT	8-2
	8.4. F. DAILY LIVING SKILLS & FUNCTIONAL EVALUATION.....	8-3
8.5	OTHER AGENCY INVOLVEMENT	8-3
8.6	IEP TEAM PARTICIPANTS FOR SECONDARY TRANSITION.....	8-3
8.7	POST-SECONDARY GOALS	8-4
8.8	SUMMARY OF ACADEMIC ACHIEVMENT & FUNCTIONAL PERFORMANCE.....	8-5
8.9	TRANSFER OF RIGHTS AT AGE OF MAJORITY.....	8-5
8.10	POST-SECONDARY FOLLOW-UP.....	8-5
8.11	STUDENTS BETWEEN 19 & 22 YEARS.....	8-5
	APPENDIX A: POST SECONDARY GOAL STATEMENTS.....	8-6
	APPENDIX B: TRANSITION ESSENTIAL SKILLS FOR ALL TEENS.....	8-7
	APPENDIX C: TRANSITION IN THE IEP.....	8-8
	APPENDIX D: COURSE OF STUDY.....	8-10

SECONDARY TRANSITION

8.1 PURPOSE AND SCOPE

Transition services (designed with a results-oriented process focused on improving academic functional achievement of the student) must be addressed in the IEP of the student not later than in the year in which he/she turns 16 years of age. The goal of transition services is planned movement from secondary education to adult life that provides opportunities which maximize economic and social independence in the least restrictive environment for individuals with exceptional needs. Planning for transition from school to postsecondary environments should begin in the school system well before the student leaves the system. (30 EC 56460)

Transition is all about planning for a student's future and how academic courses, functional curriculum and vocational activities help move a student towards the future goal. Discussion about transition or future planning should be addressed at the beginning of the IEP team meeting so that the IEP team is focused throughout the meeting on helping the student work towards his or her future goals. The goal of transition is to provide the student with all the skills, knowledge and support necessary to make their post-secondary goals a reality.

8.2 DEFINITION OF TRANSITION SERVICES

The term "transition services" is a coordinated set of activities for students with special needs that does all of the following:

1. Is designed within a results-oriented process, that is focused on improving the academic and functional achievement of the individual with exceptional needs to facilitate the movement of the student from school to post-school activities, including postsecondary education, vocational education, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.
2. Is based upon the individual needs of the student, taking into account the strengths, preferences, and interests of the student.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
4. Transition services for students with special needs may be special education, if provided as specially designed instruction, or a designated instruction and service, if required to assist a student to benefit from special education.

5. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. (56345.1. (a))

8.3 TIMELINE FOR DEVELOPING INDIVIDUAL TRANSITION PLAN (ITP)

Beginning not later than the first IEP to be in effect when the student is 16, and updated annually thereafter:

- Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills;
- The transition services (including course of study) need to assist the student in reaching those goals; and
- Beginning not later than 1 year before the child reaches the age of majority (age 18), a statement that the student has been informed that the student's rights will transfer to the student at age 18.

8.4 TRANSITION AREAS TO BE ADDRESSED

8.4. A Instruction

The IEP is an individualized instructional and support plan for students with disabilities. The transition planning, activities and services detailed in the IEP align instruction with student's post-secondary goals.

8.4. B Related Services

The IEP must describe any related services the student may need, such as transportation to a work experience or career counseling to help the student prepare for his or her future goals.

8.4. C Community Experiences

Instructional activities may take place in the community such as community based instruction to help students generalize the skills learned in the classroom to the real world.

8.4. D Employment

All students should have employment related language in their IEP. For some students this may be a goal to go to college; for others it may mean job training or supported employment. Other students may go right to work after leaving school. LEAs are responsible for helping students identify their goals and develop plans that prepare students to achieve.

8.4. E Daily Living Skills and Functional Evaluation

Some students may need specific instruction and activities in order to learn to take care of themselves and live as independently as possible. Some students may need a functional evaluation to determine which skills they will need to develop so that they are able to enter employment or live independently.

8.5 OTHER AGENCY INVOLVEMENT

A representative from any agency that is likely to be responsible for providing or paying for transition services may be invited to the IEP beginning when the student is 16 or younger, if appropriate, with parental consent or consent of adult student.

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

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

8.6 IEP TEAM PARTICIPANTS FOR SECONDARY TRANSITION

Student Role: Participates, communicates preferences and interests, communicates strengths, and takes part in the IEP development. Evidence should be available that student was invited to the IEP meeting to actively participate in the development of the ITP. If the student was unable to participate, there should be evidence that the student's strengths, interests and preferences were considered and addressed.

300.321(b)(1) Would provide that the child be invited to the IEP meeting if a purpose of the meeting is consideration of the child's postsecondary goals and the transition services needed to achieve those goals.

2006 IDEA Regulations Comments indicated that if the student is a minor, the parents (unless ed. rights have been limited or extinguished) have the authority to determine whether the student should attend the IEP Team meeting (pg.46671) 300.321(b) (2). It is the public agency's obligation to take other steps to ensure that the student's preferences and interests are considered if the child is unable to attend the meeting.

Parent/Family Role: Supports the student, reinforces the value of an individual program, and provides information about student's strengths and areas where assistance is needed.

Special Education Specialist Role: Provides information, provides teaching strategies including accommodations and or modifications, suggests course of

study related to student's post school goals; identifies related services, provides input into transition service needs, links student and parents with appropriate post-school services, coordinates all people, agencies, services or programs involved in the transition planning process

General Education Teacher Role: Assists in planning course of study, assists in identifying and providing modifications, adaptations, support and positive behavioral strategies or interventions.

(34 CFR 300.321 – Not less than one regular education teacher of such child (if the child is, or may be, participating in regular education)

LEA Representative Role: Support staff and allocate LEA resources

- Qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities
- Is knowledgeable about the general curriculum and the availability of resources of the LEA
- Has the authority to commit the LEA to implement the IEP
- LEA may designate another staff member of the IEP team if these criteria are met.

Other Specialists

- Who can interpret the instructional implications of evaluation results
- Who may be one of the team members already listed.

Other Appropriate Agency Personnel Role:

- Provide information about services, eligibility criteria;
- Explains difference between entitlement of school programs and eligibility of adult services;
- Assists in identifying community or adult services.

8.7 POST-SECONDARY GOALS

The IEP must document development of measurable postsecondary goals based on age-appropriate transition assessments. The IEP for students 16 years old or younger, if appropriate, must contain: appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services (including courses of study) needed to assist the student in reaching those goals. [Section 614(d) (1) (A) (i) (VIII)]

8.8 SUMMARY OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

The Summary of Academic Achievement and Functional Performance is not part of the IEP process. The summary is prepared by the LEA and provided to the student when he/she leaves school, either by graduating with a general diploma or reaching the age of 22. The summary will offer the student a document that summarizes his/her academic and functional performance with recommendations about what accommodations and supports the student may need to enter post-school activities, such as training, higher education, employment, and independent living. For a student whose eligibility terminates, a LEA shall provide the student with a summary of his/her academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the his/her post-secondary goals. (Section 614(c) (5) (B))

8.9 TRANSFER OF RIGHTS AT AGE OF MAJORITY

The IDEA '04 continues the requirement of notifying the student and family that educational rights convert to the student upon reaching the age of majority, which is 18 years old in California: beginning not later than 1 year before the student reaches the age of majority under State law, a statement that the student has been informed of his/her rights if any, that will transfer to the child on reaching the age of majority. (Section 614(d) (1) (A) (i) (VIII), emphasis added)

8.10 POST-SECONDARY FOLLOW-UP

The State requires districts to seek information from students who have graduated from high school to collect data on post school outcomes.

8.11 STUDENTS BETWEEN NINETEEN AND TWENTY-TWO YEARS

California Ed Code regulations applying to students between the ages of nineteen and twenty-one, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her nineteenth birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards:

- a. Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs.

b. Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in September or that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

c. Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individualized education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.

(E.C., Sec. 56026: (c) (4))

Refer to *Transition to Adult Living*, An Information and Resource Guide, California Department of Education, 2007 on the following website:

http://www.calstat.org/publications/pdfs/transition_guide_07.pdf

Appendix A – Post Secondary Goal Statements

Appendix B – Transition Essentials for All Teens

Appendix C – Transition in the IEP

Appendix D – Course of Study

POST-SECONDARY GOAL STATEMENTS

IDEA defines post-secondary education/training outcomes:

- ▶ Enroll in college or university
- ▶ Earn occupational certificate
- ▶ Enroll in vocational training (ROP, beauty school, pet grooming, trucking school,)
- ▶ Enter military for training in....
- ▶ Enter an apprenticeship
- ▶ Complete on the job training
- ▶ Enter Community based training ...
- ▶ May list major,
- ▶ Industry, or job of interest as goals mature.

- **I will enroll at... and earn a degree certificate as...**
- **I will enroll at....**
- **I will go to school**

Postsecondary Employment Goal Statements

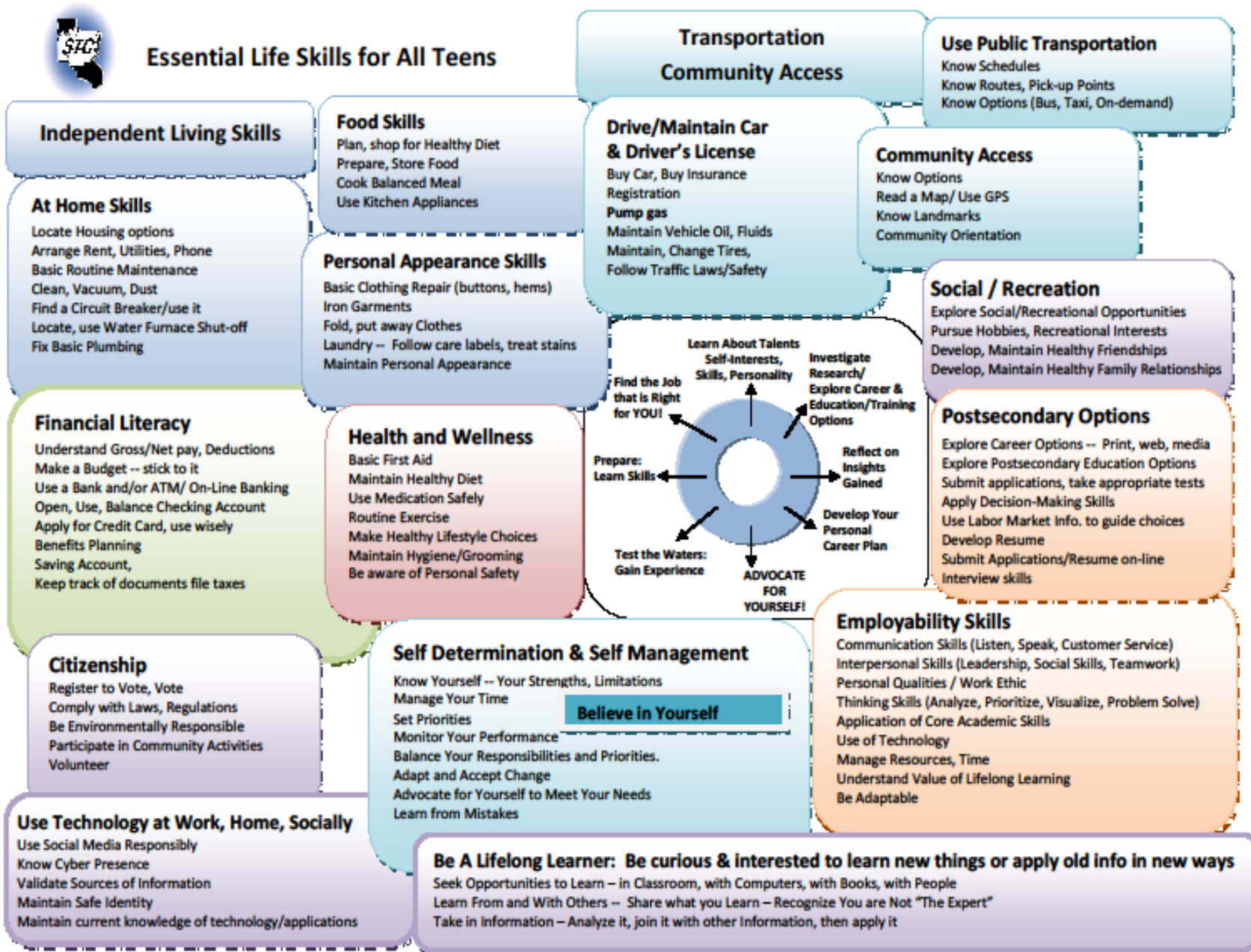
- ▶ Competitive work- full time / part time
- ▶ Supported Employment
- ▶ Integrated work activity or
- ▶ Entrepreneurship
- ▶ Volunteer

- **I will work in full time employment as... at**
- **I will work as..**
- **I will work**

Postsecondary Employment Goal Statements

- ▶ Competitive work- full time / part time
- ▶ Supported Employment
- ▶ Integrated work activity or
- ▶ Entrepreneurship
- ▶ Volunteer

- **I will work in full time employment as... at**
- **I will work as..**
- **I will work**



© Shasta Twenty-first Century Career Connections

SOURCES: 21st Century Life Skills, Casey Life Skills, Ready by 21, Employment Literacy: SCANS 21st Century Skills, Equipped for the Future, California Career Planning Guide

Transition in the IEP: The Mandate
IDEA: Transition Age 16 and Beyond

Chapter 8 – Appendix C

The term “transition services” means a coordinated set of activities for a child with a disability that:

- Is designed to be within a **results-oriented process**, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s **movement from school to post-school activities**,
- Including postsecondary education, vocational education, integrated employment (including supported employment); continuing and adult education, adult services, independent living, or community participation;
- Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Postsecondary education goals

- Enroll college or university
 - Earn occupational certificate
 - Enroll in vocational training
(ROP, beauty school, pet grooming, trucking school,)
 - Enter military for training in....
 - Enter an apprenticeship
 - Complete on the job training
 - Enter Community based training ...
- May list major, industry, or job of interest as goals mature.

Employment Goals

- Competitive work- full time / part time
- Supported Employment
- Integrated work activity
- Entrepreneurship
- Work Activity
- Volunteer

Independent Living

Live independently
 Live with family, roommates
 Live independently with supportive services
 Live in group home
 Manage finances, household
 Access community – independently, use
 Public transportation,

Postsecondary goal formula

After high school I will _____
 Behavior where/how

Transition Services

820 – College Awareness
 830 – Vocational Assessment, Guidance, Career Assessment
 840 – Career Awareness, Self Advocacy, Career Planning
 850 – Job Coaching
 860 – Mentoring, sustained coaching
 865 – Agency Linkages
 870 – Travel/Mobility
 890—Other coordination, Linkage
 900- Other special education, Related Services

SMART IEP

IEP Annual Goal

Specific

Measurable

Action

Realistic/Relevant

Time limited

What if a student does not have goals at age 16? (Who does?)

Students in grades 9 and 10 are in an exploratory phase. They need to explore their options before making informed choices.

Grades 9-10 Goals are General

Career Assessments/Guidance begins
 "I want to work or go to school"

Research, Explore

Experience- classes, work
 experience,

By end of 10th grade
 students identify
 tentative career

**Grade 12 Specific
 goals**

By end of 12th grade,
 Student creates actionable
 career plan for them.

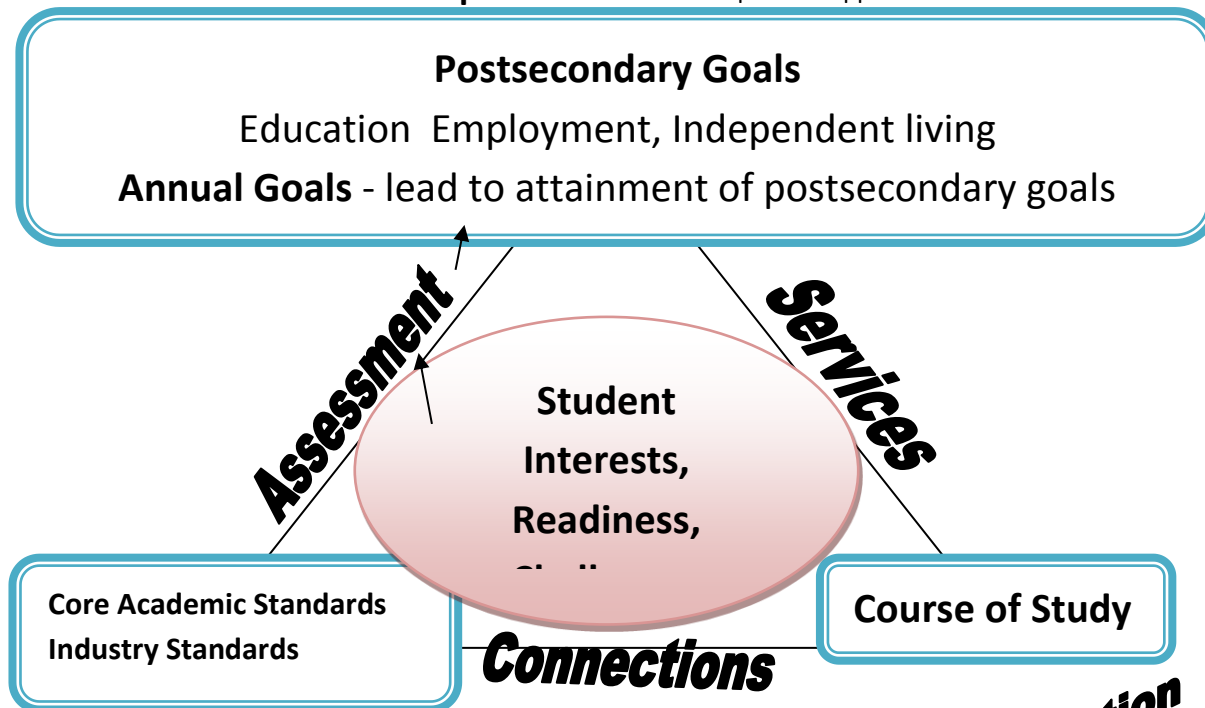
Meet the Mandate Checklist

Hint: the answers should be YES!

1. Are there **appropriate measurable postsecondary goals** in the areas of education & training, employment, and as needed, independent living?
2. Are the **postsecondary goals updated annually**? Were the goals addressed updated in conjunction with the development of the current IEP?
3. Is there evidence that the measurable postsecondary goal(s) were based **on age appropriate transition assessment**?
4. Are there **transition services** in the IEP that will reasonably enable the student to meet his/her postsecondary goal?
5. Do transition services **include courses of study** that will reasonably enable the student to meet his or her postsecondary goal(s)?
6. Is (are) there **annual IEP goals related to the student transition services needs**?
7. Is there **evidence that the student was invited to the IEP team meeting** where transition services are discussed?
8. If appropriate, is **there evidence that a representative of any participating agency was invited to the IEP team meeting** with prior consent of the parent or student who has achieved the age of majority? List not applicable if the agency is not available because of age, grade.

Course of Study

Academic courses: Core, Applied, Functional
 Elective courses that relate specifically to interests.
 Courses needed to meet graduation standards
 Hint: Pathways define courses of study.

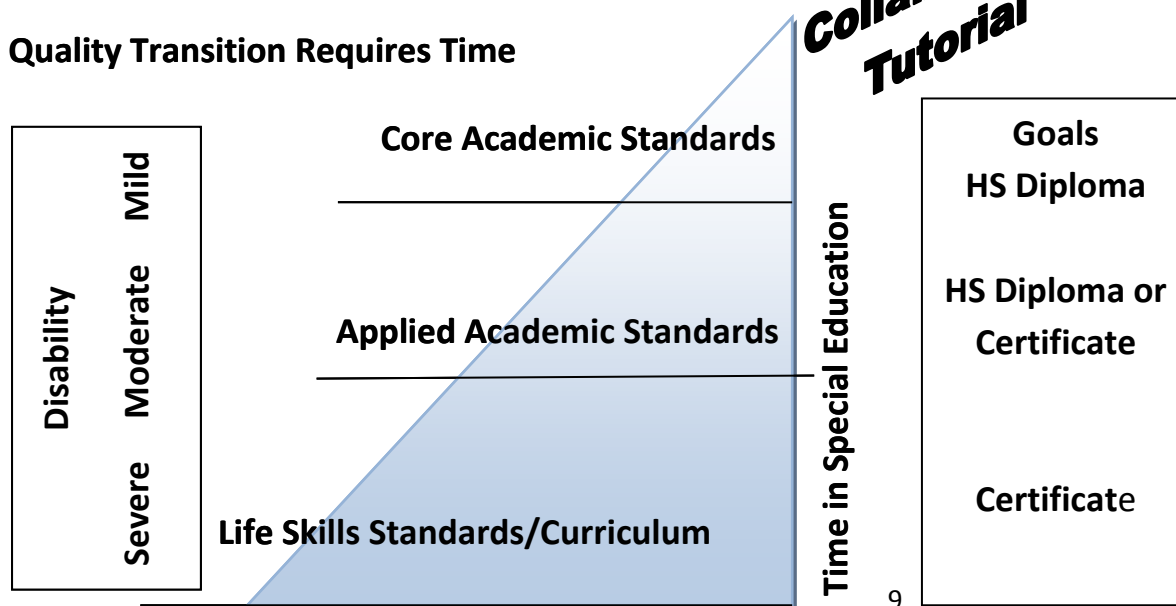


In his book, Getting Real: Helping Teens Find Their Future, Kenneth Gray suggests that there are three predictors of postsecondary education success:

Academic Skills
Career Focus
Maturity, including career maturity

Do you agree?
What are the implications for career planning and transition?

Quality Transition Requires Time



The Time Factor: Many students and teachers who focus on preparing for graduation and earning a high school diploma struggle to address transition because of the limited time available. Students who are self directed can be encouraged to take web-based career assessments (surveys, self appraisals, and interest surveys. These need to be followed up with reflection and transition interviews to document goals. Some schools utilize computerized information systems. Others rely on public, free systems. Again, reflection is critical. There is an array of career resources at www.californiacareers.info.

COURSE OF STUDY GUIDELINES

Courses of Study are defined 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.

Guidance and Recommendations

Based on a review of legislation and California Education Code (EC) that inform the course of study for the state of California, and, with the goal of making sure we do not create liabilities for any students, we recommend:

1. The course of study must intentionally and explicitly reflect each student's secondary completion goals and postsecondary transition goals.
2. For students who plan to earn a high school diploma the student must meet state and district graduation requirements.
3. Elective classes or those meeting the state and district graduation requirements such as performing and visual arts, foreign language (language other than English including American sign language), and career technical classes should reflect the individual student's career interests and postsecondary goals.
4. The course of study should be sufficiently generic to be portable across district and/or state lines.
5. Student progress toward 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.
6. It should be recognized that, to the maximum extent possible, attainment of a high school diploma should be recognized as partially meeting postsecondary education and employment goals. (Some employers require a diploma a minimum requirement when considering job applicants).
7. It should be emphasized that the course of study and attainment of a diploma or certificate are not sufficient to document the provision of transition services as mandated in IDEA.
- 8.. For students whose course of study will lead to certificates that are alternatives to a high school diploma, the certificate should intentionally and explicitly reflect each student's secondary completion goals and postsecondary goals. The options in Education Code (EC) include:

EC Section 56390

Complete a prescribed alternative course of study

Meet IEP goals and objectives

Satisfactorily attend and participate in instruction.

EC Section 56026

Age Out of the K-12 system at age 22

9. Courses of study that lead to certificates of completion should include annual IEP goals that explicitly describe evidence-based instructional practices and predictors with appropriate criterion measures of performance / achievement that when attained, demonstrate progress toward achieving postsecondary goals.

We encourage further consideration of these issues:

The high school diploma and certificates of completion should have legitimacy in terms of the “next environment” whether it is postsecondary education and training, competitive employment, supported employment or independent living. In other words, do we offer students certificates that are meaningful to employers? Do they meet the standards required by the colleges and universities to qualify for financial aid or meet entrance requirements?

Diplomas and certificates should be defined by districts and have legitimacy, and reflect expectations.

WHAT TO LOOK FOR IN THE IEP

Suggestions for review of IEPs for Course of Study

1. Review the state and high school district graduation requirements.
2. The IEP should reflect courses that meet postsecondary goals.
3. Courses should be listed that outline student's current and future classes

Sample Courses of Study

Secondary Goal: Earn a high school Diploma

The course of study is defined by the district and includes classes that meet all state and district graduation requirements and lead to a high school diploma. The student course of study is a multi-year description of coursework to achieve desired post-school goals from the student's current to anticipated exit year. The course of study may also include extracurricular activities that relate to postsecondary goals (yearbook, school newspaper, athletics, student leadership organizations (Future Farmers of America, Future Business Leaders of America, Key Clubs, etc).

Secondary Goal: Earn Certificate of Completion

Commonly used resources include:

Special Education Administrators of County Offices (SEACO) Curriculum Guide

The newly updated SEACO Curriculum Guide aligns functional skills to the subset of standards for students with moderate to severe disabilities who participate in California Alternative Performance Assessment (CAPA).

Functional Academics	Domestic Domain	Community Domain	Vocational Domain
Math English / Language Arts Listening / Speaking	Grooming / Hygiene Personal Safety Life Skills	Social Behavior Community resources Recreation and leisure Communication skills	Career Exploration Work related training Future living, working

Other curricular resources include but are not limited to:

- *Choicemaker Self-Determination Series*
- Collins, B.C. (2012). [*Systematic Instruction for Students with Moderate and Severe Disabilities*](#)
- Field, S. & Hoffman, A. (2005). [*Steps to Self-Determination: A Curriculum to Help Adolescents Learn to Achieve Their Goals*](#)
- Ford, A., Schnorr, R., Meyer, L., Davern, L., Black, J. & Dempsey, P. (1989). [*The Syracuse Community-Referenced Curriculum Guide for Students with Moderate and Severe Disabilities*](#)
- Martin, J., & Marshall, L. H. (2006). *Self-directed IEP*. Longmont, CO: Sopris West.

- NSTTAC Evidence-Based Practices <http://www.nsttac.org/content/evidence-based-practices>
- NSTTAC Predictor Resources: <http://www.nsttac.org/content/predictor-resources>
- PRO-ED Series on Transition
- Snell, M & Brown, F. (2011). *Instruction of Students with Severe Disabilities* (7th Edition)
- Student Directed Learning
- Test, D. (2012). [*Evidence-Based Instructional Strategies for Transition*](#)
- [*Universal Design for Transition*](#)
- Weymeyer, M., & Kelchner, K. (1995). *Whose future is it, anyway? A student-directed transition planning process*. Arlington, TX: The ARC.

Reference and Resources

Background: A review of legislation and California Education Code that impacts the course of study

IDEA and Federal Issues

What is required under IDEA?

C.F.R. Part 300 D Section 300.320 (b) (2) :

“2 The transition services, including courses of study) needed to assist the child in reaching these goals.”

IDEA does not define what is meant by “courses of study” in legislation or regulation. OSERS has stated that defining the course of study is a state decision.

State of California:

State Statute: EC Section 56345 – IEP Contents excerpt specific to course of study

(B) the transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals....

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7-12, inclusive, any alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.

EC Section 56390 – Certificate or Document of Educational Achievement or completion

56390 Notwithstanding Section 51412 or any other provision of law, a local agency may award an individual with exceptional needs a certificate or document of educational achievement or completion if the requirements for subdivision (a), (b) or (c) are met.

(a) The individual has satisfactorily completed a prescribed alternative course of study approved by the governing board of the school district in which the individual attended school or the school district with jurisdiction over the individual and identified in his or her individualized education program.

(b) The individual has satisfactorily met his or her individualized education program goals and objectives during high school as determined by the individualized education program team.

(c) The individual has satisfactorily attended high school, participated in the instruction as prescribed in his or her individualized education program, and has met the objectives of the statement of transition services.

The local governing board of the LEA with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study, which may include:

- Practical demonstration of skills and competencies
- Supervised work experience or other outside school experience
- Career technical education classes offered in high schools
- Courses offered by regional occupational centers or programs
- Interdisciplinary study
- Independent study
- Credit earned at a postsecondary institution

Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

EC Section 51412 -Standards of Proficiency in Basic Skills

No diploma, certificate or other document, except transcripts and letters of recommendation, shall be conferred on a pupil as evidence of completion of a prescribed course of study or training, or of satisfactory attendance, unless the pupil has met the standards of proficiency in basic skills prescribed by the governing board of the high school district, or equivalent thereof.

State Standards for courses required to earn a diploma

EC Section 51225.3 specifies that students must pass a minimum set of required courses and an exit examination. These requirements should be viewed as minimums and support for the regulations specified by the local school boards.

High school students interested in attending a California public university after graduation must have completed the required freshman admission course requirements while in high school and other coursework adopted by the local governing board of the LEA

The California *Education Code (EC)* establishes a minimum set of requirements for graduation from California high schools. The requirements should be viewed as minimums and support regulations established by local governing boards.

The University of California (UC) and the California State University (CSU) systems have established a uniform minimum set of courses required for admission as a freshman.

The following chart summarizes the high school graduation requirements by subject area and the requirements for admission to California Institutions of Higher Education.

High School Subject Area	State Mandated Requirements*(<i>EC</i> 51225.3) for High School Graduation	UC Requirements for Freshman Admissions	CSU Requirements for Freshman Admissions
English	Three Years	Four years of approved courses	Four years of approved courses
Mathematics	Two years, including Algebra I, beginning in 2003–04. (<i>EC</i> 51224.5)	Three years, including algebra, geometry, and intermediate algebra. Four years recommended.	Three years, including algebra, intermediate algebra, and geometry.
Social Studies/Science	Three years of history/social studies, including one year of U.S. history and geography; one year of world history, culture, and geography; one semester of American government and civics, and one semester of economics.	Two years of history/social science, including one year of U.S. history or one-half year of U.S. history and one-half year of civics or American government; and one year of world history, cultures, and geography.	Two years, including one year of U.S. history or U.S. history and government and one year of other approved social science.
Science	Two years, including biological and physical sciences.	Two years with lab required, chosen from biology, chemistry, and physics. Three years recommended.	Two years, including one year of biological and one year of physical science with lab.
Foreign Language	One year of either visual and performing arts, foreign language, or career technical education**.	Two years in same language required. Three years recommended.	Two years in same language required.

Visual and Performing Arts	One year of either visual and performing arts, foreign language, or career technical education**.	One year of visual and performing arts chosen from the following: dance, drama/theater, music, or visual art.	One year of visual and performing arts chosen from the following: dance, drama/theater, music, or visual art.
Physical Education	Two years	Not Applicable	Not Applicable
Electives	Not Applicable	One year***	One year***
Total	13	15 (7 in the last two years of high school)	15

* Beginning in 2005–06, all students must pass the California High School Exit Examination prior to graduation, in addition to meeting course requirements.

Beginning in 2009–10, *EC* 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.

Beginning January 1, 2010, students in foster care who transfer to a new school while in grades 11 or 12 may be able to graduate from high school without meeting the local graduation requirements that exceed the state minimum course requirements. In these cases, the district would need to conclude that the student would not reasonably be able to complete the additional local graduation requirements during the student's remaining time in high school. These students would still be required to pass the CAHSEE.

** Beginning with the 2012–13 school year (sunsets with the 2017–18 school year), *EC* Section 51225.3 provides that a district may choose to adopt a career technical education course as an optional high school graduation requirement. *** Must be chosen from approved academic courses in history, English, advanced mathematics, lab science, foreign

SUSPENSION & EXPULSION

9.1	DISCIPLINE	9-1
9.2	SUSPENSION	9-1
9.3	BEST PRACTICES – A PROACTIVE APPROACH TO SUSPENSION	9-1
9.4	SERVICES DURING SUSPENSION.....	9-2
9.5	TRANSPORTATION DURING SUSPENSION	9-2
9.6	PROCEDURAL SAFEGUARDS	9-2
9.7	MANIFESTATION DETERMINATION	9-3
	9.7. A. DETERMINATION THAT BEHAVIOR IS A MANIFESTATION.....	9-3
	9.7. B. DETERMINATION THAT BEHAVIOR IS NOT A MANIFESTATION OF THE DISABILITY.....	9-3
9.8	45 DAY REMOVAL TO IAES (SPECIAL CIRCUMSTANCES).....	9-4
9.9	SERVICES DURING 45 DAY PLACEMENT	9-4
9.10	DISCIPLINARY APPEAL PROCESS	9-4
9.11	PLACEMENT DURING APPEAL PROCESS.....	9-5
9.12	EXPEDITED HEARING	9-5
9.13	AUTHORITY OF ADMINISTRATIVE LEGAL JUDGE (ALJ)	9-5
9.14	PROTECTIONS FOR STUDENT NOT YET ELIGIBLE FOR SPECIAL EDUCATION RELATED SERVICES	9-5
	9.14. A. BASIS OF KNOWLEDGE	9-5
	9.14. B. EXCEPTION.....	9-6
9.15	CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.....	9-6

APPENDIX A:	DISCIPLINARY STEPS	9-7
APPENDIX B:	ADMINISTRATOR RECOMMENDATION OF EXPULSION.....	9-8
APPENDIX C:	STUDENT EXPULSION CHART.....	9-9
APPENDIX D:	SPECIAL EDUCATION DISCIPLINE – DISCIPLINARY REMOVALS	9-10
APPENDIX E:	SUSPENSION, EXPULSION & INVOLUNTARY TRANSFERS.....	9-11

SUSPENSION AND EXPULSION

9.1 Discipline

A student identified as an individual with disabilities pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

A student with a disability can be expelled for violation of school conduct codes only when certain procedural safeguards are followed.

If an action is contemplated regarding behavior resulting in consideration for expulsion or involving a removal that constitutes a change of placement, the parents must be notified of that decision no later than the date on which the decision to take that action is made.

Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, the IEP team must meet to review the relationship between the student's disability and the behavior subject to the disciplinary action. (27 EC 48915.5)

9.2 Suspension

The superintendent or designee may suspend a student with a disability for up to 5 consecutive school days for a single incident of misconduct and up to 20 school days in a school year. However an additional 10 days is allowed for reassignment for purposes of readjustment.

The principal or designee shall monitor the number of days, including portions of days that students with valid IEPs have been suspended during the school year.

9.3 Best Practices - A Proactive Approach to Suspension

If a special education student begins to show a pattern of suspensions:

- Notify your Program Supervisor immediately
- Discuss, implement, and **document** a variety of school-based interventions such as: IEP behavioral goals, School Counselor interaction, social skills group, counseling, parent contact, a Behavior Support Plan (BSP), Psych counseling, peer buddies, etc.

If a special education student accumulates 7-8 suspensions in one school year, the school should convene an IEP meeting:

- Discuss, and document in the IEP, appropriate services should the student go beyond 10 days of suspension (e.g. 1 hour per day of home instruction)
- Review the documentation of the variety of school-based interventions that have been implemented

What to do on Day 11

No special education services are required during the first 10 days of suspension; however, on cumulative Day 11 of suspension, and every day thereafter, a special education student is entitled to services.

- If not discussed and documented at a previous meeting, the IEP team **MUST** convene to discuss what services are necessary, **PRIOR** to offering services.
- The District typically offers 1 hour per day of 1:1 home tutoring, however each student must be discussed individually with parent input considered and documented. The law requires that a student be given the opportunity to access and make some progress both on goals and on the general education curriculum. The court has upheld the notion that with intense 1:1 instruction for one hour a day, a student can make as much progress as in a class with a 30:1 ratio for 6 hours a day **AND** the student has the rest of the day at home to work on homework and practice.
- The Day 11 IEP and the Manifestation Determination meetings may be combined, so long as the timelines are met.
- The Case Carrier should contact the special education office to arrange home instruction, if deemed the appropriate Day 11 service by the IEP team. The District should provide make-up if the service does not begin on time.

9.4 Services during Suspension

Students suspended for more than 10 cumulative school days in a school year shall continue to receive special education and related services as specified on their IEP during the period of suspension. This will enable the student to participate in the general curriculum and to progress toward meeting the goals in his/her IEP.

9.5 Transportation during Suspension

If a student with disabilities is excluded from transportation, the student is entitled to be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided that transportation is specified on the IEP.

9.6 Procedural Safeguards

The following procedural safeguards shall apply when a student is suspended for more than 10 cumulative school days, when a student is placed in an interim alternative educational setting (IAES), or when a change of placement is contemplated. Not later than the date on which the decision to take action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice.

9.7 Manifestation Determination

Within 10 school days of any decision to change the placement of a student with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or
- If the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP team determine that either of the above is applicable for the student, the conduct shall be determined to be a manifestation of the student's disability.

9.7.A. Determination that Behavior is a Manifestation

In determining that the behavior is a manifestation of the student's disability, the IEP team must:

- Conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan if LEA has not conducted such assessment.
- In the situation where a behavioral intervention plan has been developed, review behavioral intervention plan and modify if necessary to address the behavior; and
- Except under special circumstances, return the student to the previous placement unless the parent and the LEA agree to a change of placement.

9.7.B. Determination that Behavior is NOT a Manifestation of the Disability

If the team determines that the behavior was **not** a manifestation of the disability:

- Student must continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.

- If appropriate, receive a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

9.8 45–Day Removal to IAES (Special Circumstances)

School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student’s disability, in cases where a student:

- Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of the LEA.
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the LEA; or
- Has inflicted **serious** bodily injury upon another person while at school, on school premises, or at school function under the jurisdiction of a State or LEA.

The IAES shall be determined by the IEP Team.

Definition of *Serious Bodily Injury*

Serious bodily injury means bodily injury which involves:

- A substantial risk of death
- Extreme physical pain
- Protracted and obvious disfigurement; or
- Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. (18-U.S.C. 1365(h) (3))

9.9 Services during 45–Day Placement

A student who is removed from current placement to 45-day placement must:

- Continue to receive services to enable him/her to participate in the general curriculum and to progress toward meeting the goals in the IEP.
- Receive, *as appropriate*, a functional behavioral assessment, behavior intervention services and/or modifications that are designed to address the behavior so that it does not recur.

9.10 Disciplinary Appeal Process

If the parent disagrees with any decision regarding placement or manifestation determination, they may request an expedited hearing. If the LEA believes that

maintaining the current placement could substantially result in injury to the student or others, the LEA may request an expedited hearing.

9.11 Placement during Appeal Process

When an appeal has been requested by either the parent or the LEA, the student shall remain in the interim alternative educational setting (IAES) pending the decision of the administrative law judge (ALJ) until the expiration of the 45-day placement provided, whichever occurs first, unless the State or LEA agree otherwise

9.12 Expedited Hearing

The State or LEA shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

9.13 Authority of Administrative Law Judge (ALJ)

The ALJ shall hear, and make determination regarding an appeal request. In making the determination, the ALJ may order a change in placement of a student with a disability. In such situations, the ALJ may:

- Return the student to the placement from which the he/she was removed;
- Order a change in placement of the student to an appropriate interim alternative educational setting (IAES) for not more than 45 days, if the current placement of the student is substantially likely to result in injury to self or others.

9.14 Protections for Student Not Yet Eligible for Special Education and Related Services

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct may assert any of the protections provided under IDEA if the LEA had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred.

9.14. A Basis of Knowledge

A LEA shall be deemed to have knowledge that a student is a student with a disability if, before the behavior precipitated the disciplinary action occurred:

- The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate LEA, or a teacher of the student, that the student is in need of special education and related services.
- The parent of the student has requested an evaluation of the student.

- The teacher of the student, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education of such agency or to other supervisory personnel of the agency.

9.14.B Exception

An LEA shall not have been deemed to have knowledge that the student is a student with a disability if the parent of the student has not allowed an evaluation of the student or has refused services if the student has been evaluated and it was determined that the student was not deemed a student with a disability.

9.15 Conditions that Apply if No Basis of Knowledge

- If a LEA does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to disciplinary measures applied to students without disabilities, who engage in comparable behaviors.
- If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services. Pending the results, the student shall remain in the educational placement determined by school authorities.

APPENDIX A: DISCIPLINARY STEPS

APPENDIX B: ADMINISTRATOR RECOMMENDATION OF EXPULSION

APPENDIX C: STUDENT EXPULSION CHART

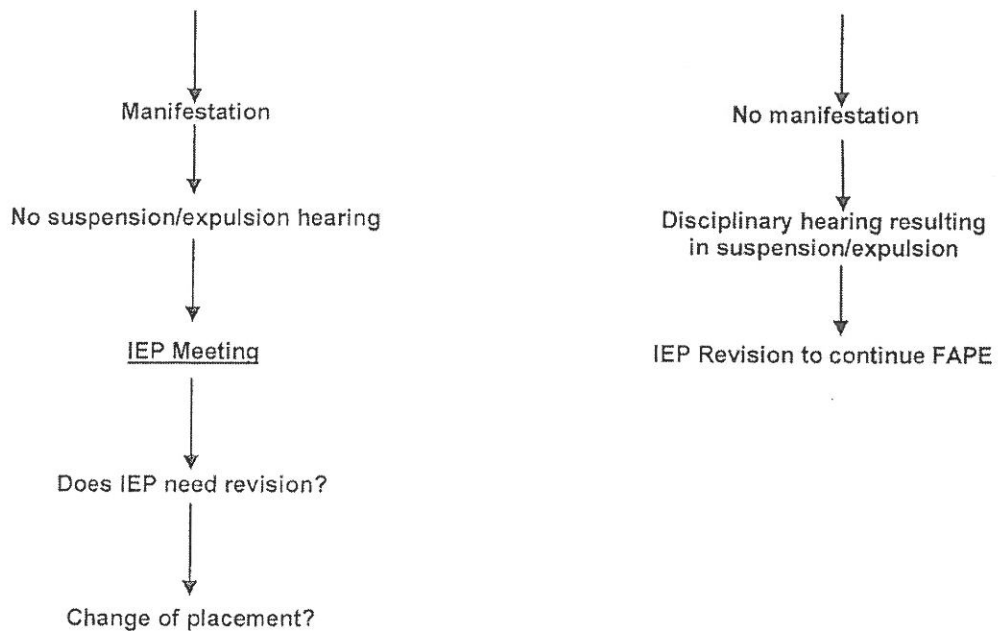
APPENDIX D: SPECIAL EDUCATION DISCIPLINE – DISCIPLINARY REMOVALS

Disciplinary Steps

(More than 10 school days of removal from current placement in a school year when a change of placement occurs)

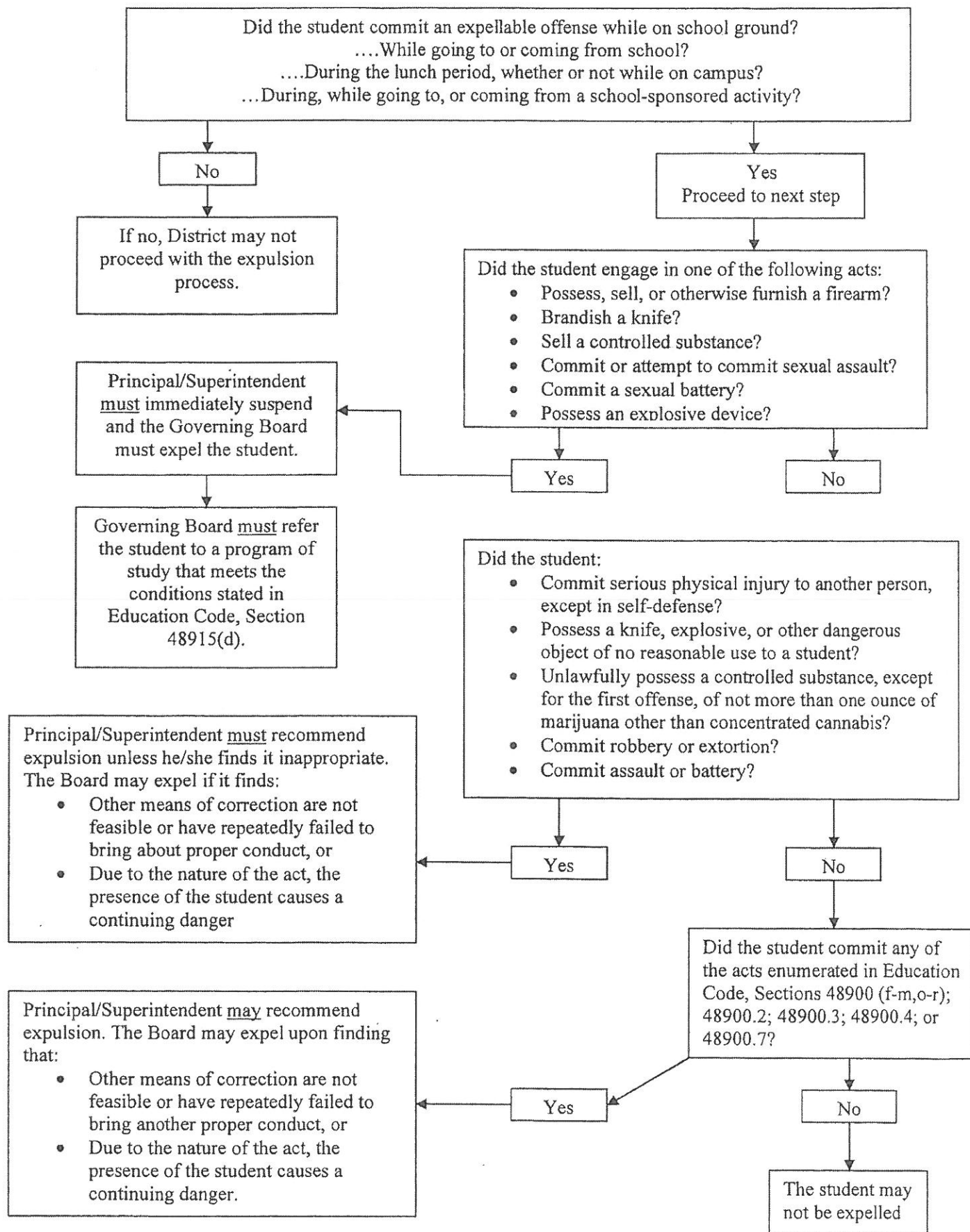
IEP Team Meeting

1. Functional behavioral assessment/review behavior plan
2. Provide parents notice of rights
3. Manifestation issue



Administrator Recommendation of Expulsion		
MUST RECOMMEND EXPULSION (Mandatory Recommendation)	SHALL RECOMMEND UNLESS PARTICULAR CIRCUMSTANCES RENDER INAPPROPRIATE (Quasi-Mandatory Recommendation)	MAY RECOMMEND EXPULSION (Permissive Recommendation)
<p>Education Code 48915(c)</p> <p>Act must meet the 48900(s) requirements.</p> <ol style="list-style-type: none"> Firearm. <ol style="list-style-type: none"> Possessing firearm when a district verified firearm possession and when student did not have prior written permission for firearm possession from a certified employee concurred in by principal or designee. Selling or furnishing a firearm Brandishing a knife* at another person. Unlawfully selling a Controlled substance listed in Health and Safety Code 11053 et seq. Sexual assault or battery (as defined in subdivision (n) of Section 48900). Possession of an explosive** <p>* As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3-1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.</p> <p>** As used in this section, the term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.</p>	<p>Education Code 48915(a)</p> <p>Act must meet the 48900(s) requirements.</p> <ol style="list-style-type: none"> "Causing serious physical injury to another person, except in self defense." Education Code 48915(a). "Possession of any knife * or other dangerous object of no reasonable use to the pupil." Education Code 48915(a)(2). "Unlawful possession of any controlled substance listed in... Health and Safety Code [section 11053] et seq.] except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis." "Robbery or extortion." Assault or battery as defined in Sections 240 and 242 of the Penal Code, upon any a school employee. <p>[Note: Please review 48915(a) which requires that if the administrator does not recommend expulsion for these offenses, that the administrator finds "that expulsion is inappropriate due to the particular circumstance."]</p> <p>Recommendation for expulsion shall be based on one or both of the following:</p> <ol style="list-style-type: none"> "Other means of correction are not feasible or have repeatedly failed to bring about proper conduct" or "Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others" (see EC 48915(b)). 	<p>Education Code 48915(e)</p> <p>Act must be committed while at school, while going to or coming from school, during activity whether on or off campus, or during while going to and from a school activity. Education Code 48900(s).</p> <p>Education Code 48900:</p> <ol style="list-style-type: none"> Physical injury <ol style="list-style-type: none"> caused, threatened or attempted willful force or violence dangerous objects alcohol or other drugs - under the influence sale of look-alike substance represented to be alcohol or other drugs. damage to property theft tobacco obscenity/profanity/vulgarity drug paraphernalia disruption/defiance receipt of stolen property imitation firearm possession aiding and abetting - infliction or attempted infliction of physical injury - (suspension only except as defined) sexual harassment (EC 48900.2) (grades 4-12 only) hate violence (EC 48900.3) (grades 4-12 only) harassment, threats and intimidation (EC 48900.4) (grades 4-12 only) terrorist threats (EC 48900.7) <p>Recommendation for expulsion shall be based on one or both of the following:</p> <ol style="list-style-type: none"> "Other means of correction are not feasible or have repeatedly failed to bring about proper conduct" or "Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others".

Student Expulsion Chart



Special Education Discipline ~ Disciplinary Removals

No Change of Placement		Change of Placement Case by case determination 34 CFR § 300.530 (a)	
Type 1	Type 2	Type 3	Type 4
Ten (10) or fewer cumulative days of suspension 34 CFR § 300.530	Eleven (11) or more cumulative days of suspension 34 CFR § 300.530 (b) (1) Ed Code 48203	Eleven (11) or more cumulative days of suspension = pattern based on substantial similarity of behavior, length of each removal, total amount of time removed, proximity of removals 34 CFR § 300.536	More than ten (10) consecutive days of suspension/expellable offense 34 CFR § 300.530 (c)
NO Manifestation Determination		Manifestation Determination – within 10 school days of decision to change placement by a team including LEA, parent, & relevant members of the IEP team. 1. Was the conduct caused by, or did it have a direct and substantial relationship to the disability. 2. Was the conduct a direct result of the LEA's failure to implement IEP? If yes, the LEA must take steps to remedy deficiency. 34 CFR § 300.530 (e) (3)	
		Manifestation 1. Conduct an FBA and develop BIP/BSP ~OR~ 2. Review and modify as necessary, preexisting BIP/BSP 34 CFR § 300.530 (f)	Not a Manifestation Apply same discipline as to students without disabilities, except for educational services below. 34 CFR § 300.530 (c)
		Placement a. Prior placement unless parent/LEA agree to modify placement as part of BIP/BSP b. 45 Day IAES Special Circumstances *Weapons, Drugs, or Serious Bodily Injury Hearing Officer *Substantial likelihood of injury to student or others c. Honig Injunction Available in court based on Dangerousness 34 CFR § 300.530 (f) (2) + (g) 300.532 (a) + (b)	Placement Expulsion
Educational Services No services unless general education students receive services. 34 CFR § 300.530 (d) (3)	Educational Services 1. Enable student to continue to participate in the general curriculum. 2. Enable student to progress towards meeting IEP goals. 34 CFR § 300.530 (d) (4)	Educational Services 1. Enable student to continue to participate in the general curriculum. 2. Enable student to progress towards meeting IEP goals. 3. FBA & BIP as appropriate designed to address behavior so it does not recur. Where: May be in an IAES Decided by: IEP team 34 CFR § 300.530 (d) (1) + (5)	Educational Services 1. Enable student to continue to participate in the general curriculum. 2. Enable student to progress towards meeting IEP goals. 3. FBA & BIP as appropriate designed to address behavior so it does not recur. Where: May be provided in an IAES Decided by: IEP team 34 CFR § 300.530 (d) (1) + (5)

NOTE: School districts and private schools are required to notify the County Superintendent of Schools of any severance of attendance beyond 10 school days or denial of admission of any child who is an individual with exceptional needs. (E.C. §48203). Students with a Section 504 accommodation plan are afforded procedural safeguards similar to students enrolled in special education.



Fagen Friedman & Fulfroft LLP

Suspension, Expulsion, and Involuntary Transfer

According to Education Code sections 48900 et.seq., a pupil who commits any offense related to school activities or attendance involving the following acts or offenses may be removed from his or her school setting through suspension, expulsion, or involuntary transfer to a continuation school, opportunity program, or county community school:

- Physical injury of another person
- Tobacco use
- Extortion (or attempts)
- Obscene acts, profanity
- Hate-motivated behavior
- Drug or alcohol offense
- Weapons possession
- Disruption/defiance
- Sexual harassment
- Theft
- Robbery (or attempts)
- Receipt of stolen property
- Gang behavior
- Terroristic threats
- Harassment, threats, or intimidation
- Bullying

<i>Suspension</i>	<i>Expulsion</i>	<i>Involuntary Transfer</i>
<p>Definition</p> <p>Short-term removal of a pupil from ongoing instruction at a school for adjustment purposes (may be used only when other means fail to bring about proper conduct, except for specified offenses or safety concerns). Does not include reassignment to classes at the same school for the student's normal schedule, referral to an advisor, or removal from a class during the period (Education Code 48900, 48900.5, 48910, 48915, 48925).</p>	<p>Long term removal of a pupil from the school district by action of the governing board, which may suspend the expulsion with specified conditions (Education Code 48918, 48915, 48925).</p> <p>For special education students, there must be a pre-expulsion IEP (<i>Honig v. Doe</i>, 484 U.S. 305 [1988]; Education Code 48915.5)</p>	<p>Transfer of irregularly attending, truant, or disruptive pupil to a continuation school or opportunity program or class (Education Code 48432.5, 48637).</p>
<p>Who must act</p> <p>Principals or superintendents (or their designees), teachers (Education Code 48900, 48910, 48911 [g] [i]).</p>	<p>Principal or superintendent (or designee) must recommend expulsion if pupil causes physical injury; possesses a knife, or other dangerous object, unlawful possession of any controlled substance; robbery or extortion, assault or battery upon a school employee. Must report reasons in writing if expulsion is considered inappropriate Education Code 48915(a)(1-5).</p> <p>Board makes final decision to expel or suspend expulsion (Education Code 48915).</p>	<p>Principal (or designee), for transfer to continuation school; district or county screening committee, for transfer to opportunity program or class or county community school (Education Code 1980, 48432.5, 48637.1, 48637.2).</p>

<i>Suspension</i>	<i>Expulsion</i>	<i>Involuntary Transfer</i>
<p>How long</p> <p><u>Principals or superintendents (or their designees)</u>: 5 days per offense; may be up to 20 days per year; balance of semester for continuation pupil, with board's approval (Education Code 48903, 48912.5). <u>Teacher</u>: remainder of day and the next day from teacher's class (Education Code 48910). May request parent/guardian to attend class with student (Education Code 48900.1).</p>	<p>Until governing board permits readmission (Education Code 48915.1, 48916).</p> <p>For students with disabilities, please see section 8.</p>	<p>Until end of the semester following the semester during which the acts leading to the transfer occurred or as specified under required placement review (Education Code 48432.5).</p>
<p>Due-process steps</p> <ol style="list-style-type: none"> 1. Conduct informal conference with pupil, referring school employee, and principal (or designee) or superintendent (Education Code 48911). 2. Tell pupil reasons for discipline and allow pupil an opportunity to present his/her side (Education Code 48911). 3. Contact parent/guardian by telephone and in writing (Education Code 48911). 4. Report suspension to the governing board and superintendent (Education Code 48911). 5. Request conference with parent/guardian and school (Education Code 48911). 	<ol style="list-style-type: none"> 1. Hearing within 30 school days of act unless governing board meets less than weekly, in which case 40 school days are allowed (Education Code 48918). 2. Give pupil written notice, facts and charges, and copy of specific rule violation; advise of right to be present, have counsel, copy documents, confront and question witnesses, present evidence, and obtain a record of the hearing. 3. Board determines whether pupil is expelled subsequent to board hearing or recommendation from panel or hearing officer (Education Code 48918). 4. Expulsion decision must be based on substantial evidence relevant to the charges adduced at the hearing (Education Code 48918). 5. Deliberation is held in closed session, but decision to expel is made public (Education Code 48918). 6. Pupil must be advised that he or she may appeal to the county board of education. Due-process rules on appeal are extremely technical. County board's decision is final (Education Code 48918-48924). 	<ol style="list-style-type: none"> 1. Pupil and parent are notified of proposed involuntary transfer in writing. Parent/guardian/pupil may request appeal with superintendent (or designee) (Education Code 48432.5, 48637). 2. At meeting, pupil and parent are informed of facts and reasons for transfer, they may inspect documents, question witnesses, and present their own evidence (Education Code 48432.5, 48637). 3. Written decision must give reasons for transfer (based on Education Code 48900, truancy, or irregular attendance) and notice of any review process (Education Code 48432.5, 48637). 4. County community school requires decision by school attendance review board (Education Code 1981.2[b], 48432.5).

**REFERRAL PROCEDURES FOR
SANTA CRUZ COUNTY OFFICE OF EDUCATION
SPECIAL EDUCATION PROGRAMS**

10.1	COUNTY PROGRAM REFERRAL ROLES AND RESPONSIBILITIES	10-1
10.2	COUNTY PROGRAM REFFERAL CHECKLIST	10-12
10.3	COUNTY PROGRAM PLACEMENT CONSIDERATION ALERT	10-13
10.4	ALTERNATIVE EDUCATION REFERRAL AND TRANSFER	10-14

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

12.1 DISTRICT REFERRAL PROCESS TO SCCOE

I.

- A. District is responsible for conducting an initial assessment or reassessment prior to referral to COE program.
- B. District contacts appropriate COE program director by day 30 of 60-day timeline about a potential placement.
- C. If a potential COE placement exists, district communicates with family regarding a prospective COE placement.
- D. District provides Referral Packet to include written parental consent for Release of Information to COE.
- E. COE program logs referral.
- F. COE program shares referral information with necessary staff.
- G. COE program identifies specific prospective placement and communicates this information with District.
- H. District facilitates parent visits to potential placement(s), which may include a COE classroom.
- I. District coordinates and conducts IEP team meeting to offer FAPE. SCCOE staff will attend and participate as needed in this IEP team meeting. (60 days).
- J. District and COE complete gathering information necessary to enroll student in the COE classroom (Bus Service Request, Emergency Form, Parent Packet, Transfer of SEIS Record, etc.)
- K. COE program confirms student's start date with District and Family.
- L. COE requests transfer of SEIS record from District, including IEP.
- M. District will affirm and attest IEP within 5 days of IEP and prior to actual transfer of SEIS record.

County	District	*Coordinated Responsibilities
	X	
	X	
	X	
	X	
X		
X		
X		
	X	X
	X	X
		X
X		
X		
	X	

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

**SANTA CRUZ COUNTY
OFFICE OF EDUCATION**

Special Education Services

Roles and Responsibilities

II. DISTRICT INTERIM PLACEMENT INTO SCCOE PROGRAM

A. District contacts appropriate COE program director.

B. If an appropriate COE placement exists:

1. District provides Referral Packet to include written parental consent for Release of Information to COE.

2. COE program logs Interim Placement.

3. COE program shares Interim Placement documents and information with necessary COE staff.

4. District communicates with family and facilitates visitation to COE program.

5. District and COE complete gathering information necessary to enroll student in the COE classroom (BSR, Emergency Form, Parent Packet, etc.)

6. District provides COE with copy of signed Interim Placement.

7. COE requests transfer of SEIS record, including IEP.

C. District and COE conduct observations and any necessary assessments required for Interim Placement IEP review.

D. Working with COE staff, District coordinates and schedules Interim Placement (30-day) IEP review.

County	District	*Coordinated Responsibilities
	X	
	X	
X		
X		
	X	X
		X
	X	
X		
		X
	X	X

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

III. STUDENT SERVICES

- A. Assessment (after placement)
- B. Re-evaluation (after placement) for additional information and services
- C. Triennial Evaluation
- D. Case Management
 - 1. **Notice to Districts regarding possible COE service change.**
COE program director/manager would notify district of recommended changes in service prior to meeting.
 - 2. **Scheduling IEPs (annual/triennial/other)**
Responsibility to contact appropriate team members and coordinate mutually agreeable dates, times, locations.
 - 3. **Notices of IEPs**
Responsibility to mail notices of meetings to parents and IEP team members.
 - 4. **Determining an LEA (District) designee, the IEP Chair and the Key Contact with Parents**
At the start of the school year, COE program director/manager will contact district's director to develop a list for each student that will determine the LEA (District) designee, the IEP Chair, and the key contact with parents.
 - 5. **Coordinating Team Meetings**
Staffing meetings to discuss progress/brainstorm strategies.
 - 6. **Adherence to Timelines**
Case manager will track the following timelines:
Evaluation dates, Annual IEP, Triennial assessment, notice of meetings, assessment plans.
 - 7. **Service Coordination**
Case manager will coordinate scheduling of DIS services.

County	District	*Coordinated Responsibilities
X		X
X		
X		
X		
X		X
X		
X		
X		

*Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

8. **Assurance of Service Delivery**
Case manager will monitor delivery of services specified on the IEP. Monitoring progress towards goals.
9. **Behavioral observations**
Observations of individual students in a variety of settings by a qualified practitioner.
10. **Behavior Support Plan**
 - a. Identifying the specific behaviors to address.
 - b. Establishing the goal for change and the steps required to achieve it.
 - c. Procedures for recognizing and monitoring changed behavior.
 - d. Choosing the appropriate behavioral strategies that will be most effective.
11. **Monitoring Adequate Progress Towards Goals**
12. **SEIS Data Entry and Management**
Case manager enters data, CASEMIS clerk checks for errors. Requests for district providers to be added to SEIS record will be submitted in writing to COE Senior Administrator, with copy to COE program manager.
13. **Discipline**
 - a. Suspension
An LEA may suspend a student with a disability for up to 10 consecutive school days without causing a change in placement.
 - b. Manifestation Determination
 - c. Expulsion

County	District	*Coordinated Responsibilities
X		
X		
X		
X		
X		
X		
	X	X
		X

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

**SANTA CRUZ COUNTY
OFFICE OF EDUCATION**

Special Education Services

Roles and Responsibilities

Within 10 school days of any decision to change the placement of a child with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
- (2) if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

- | | |
|--------------------------------------------------------------------------------------------|---|
| 14. Response to CDE compliance complaints
Named party(s) will respond. | X |
| 15. Response to Record Request
Entity that currently holds records will respond. | X |
| 16. Written translations, per IDEA requirements
(e.g., assessment, IEP, etc.) | X |

E. DIS/Other Services

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

X	County
	District
X X X	Coordinated* Responsibilities

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

2. **Audiology Services**
Consultative services regarding test findings, amplification needs and equipment, ontological referrals, home training programs, acoustic treatment of rooms, and educational management of the hearing-impaired individuals.
3. **Hearing Impaired Services**
Aural rehabilitation (auditory training, speech reading, language habilitation and speech conservation) and habilitation with individual students or groups and support for the hearing-impaired students in the regular classroom. Monitoring hearing levels, auditory behavior, and amplification for all students requiring personal or group amplification in the instructional setting.
4. **Augmentative Communication**
(AAC) refers "to an area of research, clinical, and educational practice. AAC involves attempts to study and when necessary compensate for temporary or permanent impairments, activity limitations, and participation restrictions of individuals with severe disorders of speech-language production and/or comprehension, including spoken and written modes of communication."
5. **Vision Services**
Adaptations in curriculum, media, and the environment, as well as instruction in special skills. Consultative services to students, parents, teachers, and other school personnel.
6. **Occupational and Physical Therapy**
Evaluating students' motor problems, implementing intervention based on individualized student goals, assessing progress in achieving goals and objectives, helping parents understand, prevent, and remediate motor problems, working with school staff and other professionals to meet the motor needs of children relevant to the educational setting.

County	District	*Coordinated Responsibilities
X		
X		
X		
X		
X		X

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

7. Adapted Physical Education

Adapted physical education is designed for students with disabilities who require developmental or corrective instruction and which preclude the individual's participation in the activities of the general physical education program, modified regular physical education program, or in a specially designed physical education program in a special class. Consultative services may be provided to students, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the regular physical education program or specially designed physical education programs.

8. Behavioral Services

Positive behavior support strives to use a system to understand what maintains an individual's challenging behavior. Functional assessment describes a behavior; identifies the contexts (events, times, and situation) that predict when behavior will and will not occur, and identifies consequences that maintain the behavior. It also summarizes and creates a hypothesis about the behavior, and directly observes the behavior and takes data to get a baseline. The positive behavior support process involves goal identification, information gathering, hypothesis development, support plan design, implementation, and monitoring.

9. Applied behavior analysis (ABA)

ABA is the science of applying experimentally derived principles of behavior to improve socially significant behavior. ABA takes what we know about behavior and uses it to bring about positive change (Applied). Behaviors are defined in observable and measurable terms in order to assess change over time (Behavior). The behavior is analyzed within the environment to determine what factors are influencing the behavior (Analysis).

County	District	*Coordinated Responsibilities
X		
X		
X		X

*Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

10. Orientation and Mobility

Specialized instruction for individuals in orientation and mobility techniques. Consultative services to other educators and parents regarding instructional planning and implementation of the IEP. Counseling services to parents of individuals with disabilities relative to the development of orientation and mobility skills and independent living skills of their children.

11. Nursing Services

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

- a) Managing the individual's health problems on the school site;
- b) Consulting with staff members regarding management of the individual's health problems;
- c) Providing group and individual counseling with the individuals and parents regarding health problems; and
- d) Making appropriate referrals and maintaining communication with health agencies providing care to individuals.

12. Counseling Services

Counseling and guidance services may be provided to an individual with a disability that requires additional counseling and guidance services to supplement the regular guidance and counseling program. The IEP team shall determine the need for additional guidance and counseling services.

13. Medical Administration

Administration of medicines and/or medical procedures to students during the school day.

County	District	*Coordinated Responsibilities
X		
X		
X		
		X

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

- 14. Workability**
Providing prevocational programs and assessing work-related skills, interest aptitudes, and attitudes; coordinating and modifying the regular vocational education program; assisting individuals in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community; Establishing work training programs within the school and community; assisting in job placement; instructing job trainers and employers as to the unique needs of the individuals; maintaining regularly scheduled contact with all workstations and job-site trainers; and coordinating services with the Department of Rehabilitation, the Department of Employment Development and other agencies as designated in the IEP.
- 15. Special Circumstances Instructional Assistance**
Provided for students when additional support is necessary for the student to meet his or her goals and objectives. Whenever possible, additional assistance is assigned to a school environment, class, or case manager. Occasionally a student requires individual support for a designated period of time to address a unique need.
- 16. Home-to-School Transportation**
Transportation will be provided by District unless other arrangements are made between the County and District, or a notation is made on the IEP.
- 17. Extended Year Services (ESY) services**
ESY services are designed to support a student with a disability as documented under the Individuals with Disabilities Education Act (IDEA) to maintain the academic, social/behavioral, communication, or other skills that they have learned as part of their Individualized Education Program (IEP). The focus of the services provided to the student as part of an ESY program are not upon learning new skills or "catching up" to grade level, but rather

County	District	*Coordinated Responsibilities
X		
	X	
	X	
X		

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

to provide practice to maintain previously acquired or learned skills, and to avoid substantial regression that cannot be recouped within a reasonable period of time in the next academic year. If a student has received ESY services in previous years, the student may not be eligible in future years as determinations for eligibility of ESY services are made annually.

IV. INTRA-COUNTY TRANSFERS OF COE STUDENTS

- A. In the event that any County Office of Education (“COE”) staff member learns of facts indicating that a student enrolled in a COE special education classroom has moved to a new residence (e.g., through conversation with parents, change in bus pickup location, etc.), the COE shall, within five (5) days, provide the LEA that placed the student in the COE classroom (the “Placing LEA”) with written notice of these facts. The Placing LEA will then determine whether the student has, in fact, moved to a new residence. The Placing LEA will also determine whether the new residence lies within the geographic boundaries of a different school district (the “Gaining LEA”). If so, the Placing LEA will inform the Gaining LEA of the student’s placement in the COE classroom. The Placing LEA shall also notify the parents of the affected student of their obligation to enroll the student in the Gaining LEA. Upon notification by the Placing LEA, the Gaining LEA shall assume financial responsibility for the student’s placement in the COE classroom and related special education services, retroactive to the date upon which the new residence was established.
- B. If a dispute arises between LEAs regarding the residency of a parent or parents of a special education student who is placed in a COE classroom, either LEA may refer the matter for dispute resolution pursuant to the Santa Cruz County SELPA Dispute Resolution Policy. In order to ensure the continuity of special education services pending resolution of any dispute regarding fiscal responsibility for a special education student, the LEA with fiscal responsibility for the student’s special education services prior to the dispute having arisen (i.e., the Placing LEA) shall continue to pay for such services until the dispute resolution

County	District	*Coordinated Responsibilities
		X
	X	

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

SANTA CRUZ COUNTY OFFICE OF EDUCATION

Special Education Services

Roles and Responsibilities

process has been completed pursuant to the North Santa Cruz County SELPA Administrative Regulations for Fiscal Responsibility Policy. The Placing LEA will also retain responsibility for procedural compliance with federal and state special education laws and regulations (such as by, for example, noticing and presiding at required IEP team meetings). If the Placing LEA is required to continue paying for special education services pending dispute resolution, it may recover such expenses from the Gaining LEA if it is determined, in the course of the dispute resolution process, that that the Placing LEA was not responsible for such expenses.

V. COE STUDENT RESIDENCY RELOCATION OUT OF COUNTY

- A. In the event that any County Office of Education (“COE”) staff member learns of facts indicating that a student enrolled in a COE special education classroom has moved to a new residence located outside of the County of Santa Cruz, (e.g., through conversation with parents, change in bus pickup location, etc.), the COE shall, within five (5) days, provide the LEA that placed the student in the COE classroom (the “Placing LEA”) with written notice of these facts. The Placing LEA will then determine whether the student has, in fact, moved to a new residence. If the new residence is outside the geographic boundaries of Santa Cruz County, the Placing LEA will notify the new district of residence and will notify the parents of the affected student. Arrangements will need to be made to immediately transition the student to the new district of residence. Pending transition of the student to the new district of residence, the Placing District will retain responsibility for procedural compliance with federal and state special education law, and will continue paying for special education services until the student is placed in the new district of residence.

County	District	*Coordinated Responsibilities
		X

**Coordinated Responsibilities: District and County will confer to determine allocation of responsibility.*

Santa Cruz COE Special Education REFERRAL CHECKLIST Student Last Name _____ Student First Name _____ Date of Birth _____ Referring District _____ Birthplace _____ Parent Education _____ Date Student Entered: Special Education _____ Public School _____	E C E	SPECIAL EDUCATION SERVICES (K – 12)	DESIGNATED INSTRUCTIONAL SERVICES						T O I N I T I A T E 30-DAY ADMIN. PLMT. * *OTHER INFO TO FOLLOW
			HI	VI	INCL	APE	AUD	O&M	
REFERRAL FORM (SELPA-01)	R	R	R	R	R	R	R	R	R
RELEASE OF INFORMATION CONSENT	R	R	R	R	R	R	R	R	R
CURRENT ASSESSMENT PLAN (Signed)			R	R	R	R	R	R	R
BIRTH CERTIFICATE (Birthdate Verification)	R	R							R
PSYCHOEDUCATIONAL EVALUATION * Including characteristics and/or medical conditions which relate to eligibility criteria; developmental history; history of school placement and interventions (if any). *For ECE, within 6 months For other programs, within 1 year	R	R	R	R	R			R	
BEHAVIOR SUPPORT PLAN (if behavior is a significant area of concern)	R	R	R	R	R	R		R	
RECORD OF SUSPENSIONS		R	R	R	R	R		R	
SPEECH / LANGUAGE EVALUATION	R	IA	R		IA		IA		
CURRENT IEP (which includes goals and objectives)	R	R	R	R	R	R	R	R	R
HOME LANGUAGE SURVEY	R	R							
LANGUAGE CLASSIFICATION TEST DATA (ie. CELDT): Date(s) Taken _____ Language Proficiency _____	R	R							
GENERAL MEDICAL INFORMATION: Summary from pediatrician regarding current health status; restrictions; medications; health history	R	R	R	R	R	R	R	R	
RECORD OF IMMUNIZATIONS	R	R							
VISION AND HEARING SCREENING	R	R	R	R			R	R	
AUDIOLOGICAL EVALUATION AND AUDIOGRAM : HI SDC OR DIS	R HI SDC	R HI SDC	R				R		
VISION EVALUATION FROM DOCTOR: DIS	R	R		R				R	
ASSESSMENT RESULTS	DRDP R	STAR CAHSEE R	IA	IA	IA	IA		IA	

Please Note:

R=REQUIRED IA=IF APPLICABLE

SPECIAL EDUCATION

10.3

Placement Consideration Alert

Check appropriate box(es) :

- ☐ Placement Consideration Packet
☐ Request for SCCOE Class visitation with Parent
☐ Request for SCCOE Case Manager to observe student

Date: _____

District: _____

Student Name: _____

Date of Birth: _____

Current Teacher: _____

Current Program: _____

Current Case Manager:
(If applicable) _____Phone:
(School contact) _____**Type of COE program requested (if known):**

_____ Moderate/Severe Preschool

_____ Moderate/Severe Middle School

_____ ED Elementary

_____ Autistic Preschool

_____ Moderate/Severe High School

_____ ED Middle School

_____ Moderate/Severe Elementary

_____ Post-Secondary

_____ ED High School

_____ Autistic Elementary

Please attach all of the following:

_____ Current IEP (last annual, complete with reports & goals)

_____ Most recent assessment reports.

_____ Behavior Support Plan (If one in place)

Pertinent history and Comments:

Please include any that apply: history of behavior interventions, placements attempted, medical issues, reason (s) for considering a change of placement. (Use back of form if necessary, or attach documentation)

Approved by _____

Date _____

Required Signature: Special Education Administrator

PROGRAMS OPERATED BY THE SANTA CRUZ COUNTY OFFICE OF EDUCATION

10.4. ALTERNATIVE EDUCATION PROGRAMS

The Santa Cruz County Office of Education Alternative Education Program (hereinafter referred to as “SCCOE”) operates several types of programs. The purpose of this document is to provide a process for the movement of students between the local education agencies (LEAs) and SCCOE, and transfer of a student back to the LEA.

10.4. A. TYPES OF ALTERNATIVE EDUCATION

Juvenile Court Schools

Juvenile court schools are public schools or classes in any juvenile hall, home, ranch, camp, or regional youth educational facility. They provide an educational placement for students who are under the protection or authority of the juvenile court system. This may include students who have been expelled from their school district, some of whom are also on probation. The county juvenile court schools are WASC accredited, utilize core curriculum aligned to California Content Standards, and create Individualized Learning Plans for each student. Only County Offices of Education may operate and provide for the administration of juvenile court schools.

County Community Schools

County community schools provide an educational placement for students who are expelled from their regular school or are referred by juvenile court, probation, or a local SARB Board. Support resources include caseworkers, family and community members, mental health counselors, and intensive supervision and educational guidance to ensure that the appropriate services and educational needs of the student are met. The County Community School is WASC accredited, utilize core curriculum aligned to California Content Standards, and create Individualized Learning Plans for each student. Community Schools operated by the SCCOE, offer independent study as well as school-based programs. Only County Offices of Education may operate and provide for the administration of county community schools.

Community Day Schools

Community day schools ensure that an educational program is provided to students who have been expelled or who are otherwise at risk. Students benefit from support services that include school counselors and psychologists, academic and vocational counselors, and student discipline personnel. County Offices of Education and LEAs may operate community day schools. Currently the Santa Cruz County Office of Education does not operate a Community Day School.

10.4. B. REFERRAL/INTAKE PROCESS FOR JUVENILE COURT SCHOOL (Juvenile Hall)

When a student who receives special education services is referred to Juvenile Hall through the juvenile court system, the following procedures shall be followed:

- Upon entering Juvenile Hall, the student shall be enrolled in Hartman High School the County Court School serving the Hall.
- SCCOE shall use SEIS and other appropriate means (student survey, interviews, contact previous SELPA/LEA, student interview, document reviews) to determine if the referred student has a current Individualized Education Plan.
- SCCOE staff shall request special education records from the student's LEA of residence.
- SCCOE staff shall complete an Interim Special Education Services form which will identify appropriate services within five days.
- Within thirty days SCCOE staff shall hold an IEP.

10.4.C. REFERRAL/INTAKE PROCESS FOR COUNTY COMMUNITY SCHOOLS

A student's LEA of residence, juvenile court, probation, or a SARB board may refer a student who receives special education services to a county community school. Also, a parent may request enrollment directly. The following referral procedures shall be followed:

- If the referral has not come through the LEA, upon receipt of a referral, SCCOE will notify the student's LEA case manager or the district's special education administration of the referral.
- If the referral has not come through the LEA, and the student is new to the district of residence, the districts' special education administration shall be notified.
- The district shall prepare a referral packet and forward it to the SCCOE offices. The packet shall contain the following five items:
 1. a cover letter explaining the rationale for the referral.
 2. the student's most recent IEP
 3. the most recent psychological evaluation
 4. a transcript (report card for middle school students)
 5. copies of the student's discipline records or logs.
- If the student's IEP is due within 30 days of the referral, or if the student's triennial is due within 3 months of the referral, **the LEA** shall be responsible for the completion of the necessary assessments and IEP.
- Once the referral packet has been reviewed, SCCOE shall respond to the LEA and indicate if the student may be appropriate for an SCCOE alternative program.
- The LEA shall include a representative from SCCOE in a staffing meeting. If necessary, SCCOE will request a staffing meeting with the LEA regarding potential placement.

- If it is agreed that the student is potentially appropriate for SCCOE, the LEA shall hold an IEP, and an SCCOE representative will attend. At the IEP meeting it remains the LEA's responsibility to make an offer of FAPE. However, a placement in an SCCOE program may be discussed as an option during the IEP.
- If the IEP team determines the SCCOE Community School system is an appropriate placement, SCCOE may make an offer of FAPE at a subsequent IEP meeting.
- SCCOE will determine placement within the Community School system.

10.4. D. RETURN TO LEA OF RESIDENCE

The SCCOE or the LEA of residence may recommend the return of a student to LEA of residence. When this occurs, the process shall be as follows:

- Notify LEA of residence, if SCCOE is the referring party.
- Prepare a packet of student records (containing a current copy of the student's IEP, the most current full psycho-educational assessment, and any other pertinent documents) and submit it to the designated contact person for the LEA of residence.
- In collaboration with the LEA of residence, convene and attend a staffing.
- If the student's IEP is due within 30 days of the referral, or if the student's triennial is due within 3 months of the referral, SCCOE shall be responsible for completing the necessary assessments and IEPs.
- Convene, in collaboration with the designated contact person for the LEA of residence, an IEP team meeting to discuss possible transition activities and a change of placement.

10.4. E. MOVE TO A MORE RESTRICTIVE PLACEMENT

Occasionally, The SCCOE may determine that a student who is enrolled in an alternative education program may require a more restrictive placement. In that case, the following procedures shall apply:

- Notify the LEA of residence that a more restrictive placement may be appropriate
- Convene a staffing meeting with the LEA in attendance.
- Review all records to ensure that assessments, behavioral reports, behavior support plans, counseling, etc. are documented.
- Conduct a reassessment if the last full assessment is over two years old and collect data regarding progress towards goals if previous data is older than last grade report.
- Convene an IEP team meeting including the LEA of residence to discuss possible referral to a more restrictive level of service.
- If the IEP team determines that a more restrictive environment is needed, the LEA becomes responsible for the offer of FAPE.

10.4. F. IEP REVIEWS, ADDITIONAL ASSESSMENTS, AND REASSESSMENTS

Once enrolled, and unless an IEP is due within the 30 day or three month timeline mentioned above, the SCCOE is responsible for conducting all IEP reviews and reassessments of the student while the student is enrolled in an SCCOE Alternative Education Program. If a particular type of assessor is required and SCCOE does not have such an assessor available, SCCOE shall contact the student's LEA of residence to identify options for completing the assessment. The LEA of residence shall provide the assessor. SCCOE shall convene the IEP team meeting and the LEA of residence shall be invited to participate.

10.4. G. PROVISION OF RELATED SERVICES NOT AVAILABLE THROUGH THE ALTERNATIVE EDUCATION PROGRAM

The SCCOE provides special education teachers with mild/moderate credentials, paraprofessional support, and school psychologist services at all of its alternative education sites. Each student's LEA of residence must provide any related service required by a student's IEP that is not available through SCCOE.

10.4. H. INITIAL REFERRALS TO SPECIAL EDUCATION

When it is determined that a student who is enrolled in an SCCOE Alternative Education Program is not making satisfactory progress and there is a suspected disability, SCCOE shall hold an SST and provide appropriate interventions. Should these interventions fail to bring about satisfactory progress, the LEA of residence will be notified, and the student will be assessed. . The SCCOE is responsible for conducting the assessment. If a particular type of assessor is required but SCCOE does not have such an assessor available, SCCOE shall contact the student's LEA of residence to identify options for completing the assessment. If additional student records are needed as part of the assessment that have not been transferred from the LEA of residence to the SCCOE, those records will be requested. The LEA of residence will provide the assessor. SCCOE shall convene the IEP meeting and the LEA of residence shall be invited.

NONPUBLIC SCHOOL PLACEMENT

11.1	NONPUBLIC SCHOOL/AGENCY PLACEMENT PROCESSS.....	11-1
11.2	OUT-OF STATE NONPUBLIC SCHOOL PLACEMENTS.....	11-1
11.3	INITIATION OF INDIVIDUAL SERVICES AGREEMENT (ISA).....	11-1
11.4	PROGRESS REPORTS.....	11-5
11.5	TRANSPORTATION OF STUDENTS.....	11-5
11.6	TRANSITION OF STUDENTS FROM ELEMENTARY TO HIGH SCHOOL DISTRICT	11-6
11.7	CHANGE OF PUPIL RESIDENCE.....	11-6
	11.7. A. TRANSFER OF STUDENT RECEIVING SERVICES IN NONPUBLIC SCHOOL	
	11.7. B. TRANSFER OF STUDENT IN A RESIDENTIAL SCHOOL	
11.8	OUT-OF-HOME PLACEMENTS.....	11-7
	11.8. A. OUT OF HOME PLACEMENTS BY COURTS, SOCIAL SERVICES, REGIONAL CENTER AND OTHER PUBLIC AGENCIES	
	11.8. B. PLACEMENTS BY LEAS THROUGH AN IEP PROCESS DETERMINATION IN THERAPEUTIC RESIDENTIAL TREATMENT FACILITY (IN STATE OR OUT OF STATE)	
	11.8. C. TRAVEL REIMBURSEMENT GUIDLINE FOR OUT OF COUNTY RESIDENTIAL NONPUBLIC SCHOOLS	
APPENDIX A:	CDE OUT OF STATE PLACEMENT REPORT	11-11
APPENDIX B:	TRAVEL REIMBURSEMENT GUIDELINES FOR OUT OF COUNTY RESIDENTIAL NONPUBLIC SCHOOLS	11-13

NONPUBLIC SCHOOLS

11.1 NONPUBLIC SCHOOL/AGENCY PLACEMENT PROCESS

Before a LEA or SCCOE places a student with a disability in, or refers a student to, a nonpublic school (NPS), the LEA or SCCOE shall hold an IEP team meeting to review the IEP.

The IEP team may recommend a NPS placement when a public school placement cannot be identified, which will appropriately meet the student's needs. The IEP team shall take steps to find an appropriate placement in a public program operated by another LEA or the SCCOE special education programs. Following determination by the IEP team that the student requires a NPS placement, the LEA in consultation with parents and other public agencies, (which may have financial responsibilities for the placement of the student) will select one or more nonpublic schools to determine which one can implement the student's IEP. (EC 56342)

11.2 OUT-OF-STATE NONPUBLIC SCHOOL PLACEMENTS

Before contracting with a NPS outside of California, the LEA or SCCOE shall document its efforts to utilize public schools or to locate an appropriate NPS within the state.

If a LEA or SCCOE decides to place a student in a NPS outside of this state, the LEA shall indicate the anticipated date for the return of the student to a public school or NPS or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student.

If a LEA or SCCOE places a student with a NPS outside of this state, the student's IEP team shall submit a report to the superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the LEA to locate an appropriate public school or NPS or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements made outside of this state. (E.C. 56365(a))

(See Chapter 11 Appendix A – CDE Out of State Placement Report)

11.3 INITIATION OF INDIVIDUAL SERVICES AGREEMENT (ISA)

The Master Contract shall specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the NPS and the LEA to provide the special education and related services, as well as transportation specified in each student's IEP. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by each pupil. The contract may allow for partial or full-time attendance at the NPS.

The master contract shall include an individual services agreement for each student placed by a LEA that will be negotiated for the length of time for which the NPS special education and designated instruction and services are specified in the student's IEP.

The master contract shall include a description of the process being utilized by the LEA to oversee and evaluate placements in nonpublic schools, as required by federal law. This description shall include a method for evaluating whether each student is making appropriate educational progress. At least once every year, the LEA shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an IEP:

- a) Evaluate the educational progress of each student placed in a NPS including all state assessment results;
- b) Consider whether or not the needs of the student continue to be best met at the NPS and whether changes to the IEP of the student are necessary, including whether the student may be transitioned to a public school setting. This consideration shall be made at an IEP Team meeting;
- c) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to a student's IEP. At any time during the term of the contract or individual services agreement, the parent, the NPS, or the LEA may request a review of a student's IEP by the individualized education program team;
- d) Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each student's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the NPS and the LEA.
- e) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the student to a public school program. To terminate the contract either party shall give 20 days' notice;

- f) The NPS shall provide all services specified in an IEP, unless the NPS, and the LEA agree otherwise in the contract or individual services agreement;
- g) Related services provided pursuant to a NPS master contract shall only be provided during the period of a student's regular or extended school year program, or both, unless otherwise specified by the student's IEP;
- h) The NPS shall report attendance of students receiving special education and related services;
- i) A NPS is subject to the alternative accountability system in the same manner as public schools and each student placed in the NPS shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the department;
- j) Beginning with the 2006-07 school year testing cycle, each NPS shall determine its STAR testing period. The NPS shall determine this period based on completion of 85 percent of the instructional year at that NPS, plus and minus 10 days, resulting in a 21-day period. Each NPS shall notify the district of residence of a student enrolled in the school of its testing period. Staff at the NPS who administer the assessments shall attend the regular testing training sessions provided by the district of residence. If staff from a NPS have received training from one LEA, that training will be sufficient for all LEAs that send student to the NPS. The district of residence shall order testing materials for its students that have been placed in the NPS. The board shall adopt regulations to facilitate the distribution of and collection of testing materials;
- k) The NPS shall prepare a school accountability report card;
- l) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a LEA for students enrolled in the NPS unless provided directly or subcontracted by that NPS.

If a student is enrolled in a NPS, the approval of the LEA prior to agreement to a contract or individual services agreement, the LEA shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

If after 60 days the master contract or individual services agreement has not been finalized either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the

county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract, which shall be binding upon both parties.

A master contract for special education and related services provided by a nonpublic, nonsectarian school or agency may not be authorized under this part, unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school or agency receiving approval to educate pupils under this part for a period no longer than 18 months from the date of the initial approval.

When written parental consent to the placement has been obtained, the authorized representative of the student's district of residence is responsible for initiating contract negotiations with the nonpublic school, agency or institution. The following provisions appear in Education Code 56366:

- The contract shall specify the administrative and financial agreements between the nonpublic school and the district, SELPA or county office to provide the services included in the pupil's IEP. The rates determined at that time shall not be increased for the duration of the contract unless mutually agreed upon by both parties. The contract may allow for partial or full-time attendance at the nonpublic school. The administrative provisions shall include procedures for record keeping and documentation and the maintenance of school records by the contracting district, SELPA, or county office to insure that appropriate high school graduation credit is received by the pupil.
- The contract shall be negotiated for the length of time for which nonpublic school services are specified in the pupil's IEP.
- Changes in educational instruction, services or placement provided under contract may only be made on the basis of revisions to the student's IEP.
- The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract, unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract, either party shall give 20- day notice.
- The nonpublic school shall provide all services specified in the IEP, unless the nonpublic school and the district, SELPA, or county office agrees otherwise in the contract.
- All districts, SELPAs, and county office will use an "Individual Agreement for nonpublic, Nonsectarian School Agency Services" that has been approved by the State.

11.4 PROGRESS REPORTS

As specified in the original contract agreement, the nonpublic school shall provide written reports of the educational progress of individuals placed in the school. The contractual services agreement between the educational agency and the nonpublic school agency follows the State Master Contract form and includes the following terms and conditions pertaining to pupil progress evaluation:

- The nonpublic school is required to comply with all elements of the student's IEP.
- The nonpublic school is required to provide the IEP Team with written behaviorally specific and/or performance-based documentation of its compliance with all elements of the IEP.
- The local district is required to review, at least annually, the student's IEP and to assess and evaluate the educational progress of each student placed in nonpublic school.
- The nonpublic school shall comply with Education Code section 48911.5, which requires the NPS site principal to have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs as set forth in section 48911.
- The nonpublic school is required to allow representatives of the contracting educational agency to monitor, assess, and verify pupil progress through site visits conducted at reasonable intervals.

11.5 TRANSPORTATION OF STUDENTS

The IEP Team determines whether transportation to and from the nonpublic school is required as part of the student's IEP. The local district may provide transportation or may reimburse the parent or nonpublic school subject to a written agreement or contract for cost of actual and necessary travel incurred in transporting the individual with special needs at a rate to be determined by the public education agency governing board. The rate shall be no less than the rate allowed for travel by the public education agency employees.

Special education transportation services included in the NPS contract may not be provided through the use of equipment owned or leased by a district, SELPA, or county office unless through a waiver under Education Code Section 56366. The request for waiver will include information and assurances that the use of the equipment owned or leased by the contracting agency costs less than equipment of a private vendor, and that the service is specified in the pupil's IEP and individual services agreement.

11.6 TRANSITION OF STUDENTS FROM ELEMENTARY TO HIGH SCHOOL DISTRICT

An elementary school district shall notify a high school district of all students placed in nonpublic schools prior to the annual review of the IEP for each student, who may transfer to the high school district.

When a student with a disability meets LEA requirements for completion of a prescribed course of study and adopted differential proficiency standards, as designated in the student's IEP, the LEA, which developed the IEP, shall award the diploma.

11.7 CHANGE OF PUPIL RESIDENCE

11.7.A Transfer of Student Receiving Services in Nonpublic School

When a student, receiving services in a NPS, moves outside of the boundaries of the local district, the parent shall immediately report the change of residence to the administrator of both the former and new public school and the NPS. As agreed by the terms of the contract, the contracting NPS shall immediately notify the LEA in both the former and new residence areas. The superintendent (or designee) of the local district making payment to the NPS must immediately notify the new local district of the transfer and provide a copy of the student's records, including the IEP, and the contract for services with the NPS. The fiscal responsibility of the former local district shall terminate on the last day of the student's residence in that district.

Within (15) working days of receiving the student's records, the receiving district in the SELPA shall conduct a review of the student's IEP to determine whether or not the NPS placement is still appropriate. The following factors shall be considered in determining the appropriateness of the pupil's current placement:

- No appropriate public education program is available.
- To move the student at the time of change of residence would be harmful to the health, welfare or educational progress of the individual.
- The NPS continues to be within a reasonable distance and/or travel time from the home of the student.
- Other contingencies that necessitate the individual remaining at the NPS as determined by the IEP team.

If the student's NPS placement is considered appropriate in keeping with the federal mandate of the least restrictive environment, the receiving LEA shall negotiate a new contract for services with the NPS. If the placement is considered inappropriate, the new LEA shall, after a review of the IEP and with the consent of the parent/guardian, provide the needed special education services and facilities.

11.7.B Transfer of Student in a Residential Nonpublic School

When a student was placed and residing in a residential NPS prior to transferring to a school district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential NPS placement shall continue to be responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends. (EC 56324(c))

11.8 OUT- OF- HOME PLACEMENTS

Determining the responsibility for payment for NPS costs for students in out-of-home placements requires consideration of two factors: (1) which agency placed the student (i.e., the purpose of the placement); and (2) where the student was placed.

11.8.A Out-of-Home Placements by Courts, Social Services, Regional Center and Other Public Agencies.

1. Residential Costs

Placements made by courts, social services and regional centers and are not made by LEAs are not necessary for the student to receive a free appropriate public education; in most of these cases, the student's district of residence (i.e. the district in which their parents or legal guardians reside) is not financially responsible for the costs associated with the residential placement.

In those cases where an educational agency did not make the placement decision, the court, regional center for the developmentally disabled, or public agency (other than an educational agency) placing the individual in the institution or home will be responsible for the residential and other non-educational costs. (EC 56159, EC 56155)

2. Educational Costs for Nonpublic School Placement

Licensed Children's Institutions (LCIs): If the IEP team determines that NPS placement is necessary to meet the goals of the IEP, and the student is placed in a licensed children's institution (LCI) the educational costs will be the responsibility of the LEA in which the institution is located (EC 56156.4). Students residing in a licensed children's institution within the physical boundaries of the NSCC SELPA, the SCCOE will be considered the student's district of residence and the SCCOE will be responsible for educational placement costs as delineated in the NSCC SELPA's Funding Allocation Model.

Foster Family Home: If the student is in a foster family home (FFH) the NPS costs are the responsibility of the LEA in which the foster family home is located (EC 56156.5 (c).)

Homeless Shelter: When students are placed by a court or non-educational public agency in a homeless shelter, the student's school district of residence will be the district where his/her parent or legal guardian resides unless the shelter staff have executed a caregiver affidavit with regard to the student. When a caregiver affidavit has been executed, the district where the shelter is located will be responsible for educating the student (EC 48204(d).)(EC 56365(f))

11.8.B Placements by LEAs through an IEP Process Determination in Therapeutic Residential Treatment Facility (In-state or Out-of-State)

With the passage of AB 114, it is clear that local educational agencies (LEAs) are now solely responsible for ensuring that students with disabilities receive special education and related services, including some services previously arranged for or provided by county mental health agencies. This may include residential care when the individualized education program (IEP) team determines those services are necessary for the student to benefit from his or her education.

1. Educational Costs for Non Public School Placement

If the IEP team determines that NPS placement is necessary to meet the goals of the IEP, and the student is placed in a therapeutic residential treatment facility or licensed children's institution (LCI),

the educational costs will be the responsibility of the LEA making the placement.

2. Residential Costs

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." This may include residential care when the individualized education program (IEP) team determines those services are necessary for the student to benefit from his or her education.

11.8. C Travel Reimbursement Guidelines for Out-of-County Residential Nonpublic Schools

The following are the guidelines related to parent visitations to students placed in residential facilities per a student's IEP:

1. Parent shall be reimbursed for transportation, lodging and related costs associated with a student's initial placement; subsequent therapeutic visits for a parent to meet with the student's therapist at the therapeutic residential facility; or the student's therapeutic visits home when procedures and guidelines set forth are followed.
2. The reimbursement of four (4) round trips per fiscal school year (July 1-June 30) is provided when procedures are followed, documentation requirements are met and approval is given by the LEA's Special Education Administrator or designee. Only pre-approved therapeutic visits requested by the NPS Therapist for family therapy will be authorized for reimbursement.
3. **The total costs per fiscal year may not exceed a maximum of \$2400.** Reimbursement will be provided for transportation, lodging, and related costs as specified on *Travel Reimbursement Guidelines* (Exhibit A) for a maximum of two (2) nights and three days per visit. Since the purpose of the visit is to engage in family therapy with your child, visitations must be scheduled on weekdays (Monday through Friday) and excluding holidays that fall on weekdays.

To assist you in meeting the requirements for the reimbursement of appropriate travel expenses, the following forms are attached:

1. *Travel Reimbursement Guidelines* (Exhibit A)
2. *Travel Reimbursement Claim Form* (Exhibit B)

Parents are to be provided the guidelines to review and make four (4) copies of the claim form. Complete a claim form for each trip taken and submit it together with the appropriate **itemized original receipts**. Make a copy of the receipts and documents you will submit to keep copies for your records. Submit claims to LEA.

(See Appendix B – Travel Reimbursement Guidelines for Out of County Residential Nonpublic Schools – Exhibits A & B.)

Appendix A – CDE Out of State Placement Report

Appendix B – Travel Reimbursement Guidelines for Out of County Residential Nonpublic Schools – Exhibits A & B

**Reporting of Out-of-State Nonpublic, Nonsectarian
School and Agency Placement
California Education Code 56365(f)**

This report is required to be submitted within 15 days of the placement decision to:

Interagency-Nonpublic Schools/Agencies Unit

Special Education Division

California Department of Education

1430 N Street, Suite 2401

Sacramento, CA 95814

Phone 916-327-0141 FAX: 916-327-5233

1.	Placing Agency:	
	Address:	
	City:	State: Zip:
	Contact Person (Print Full Name):	Telephone:
	Signature:	
2.	Student ID# :	Birth Date:
3.	Name of Out-of-State School/Agency:	
	Is the Program California-Certified? Yes ____ No ____ (A waiver is required for noncertified programs.)	
	Address:	
	City:	State: Zip:
	Contact Person (Print):	Telephone:
4.	Date of Placement:	For School Year(s):
	Anticipated Date of Return to a California Placement:	
5.	Out-of-State Pupil Placement and Costs Report costs by school year (example 2009-10; 2010-11) NOTE: (Continue on reverse. Use additional sheets, if necessary.)	
	4 Check appropriate box	
	FULL DAY, nonpublic, nonsectarian SCHOOL placement	Contract Cost:
	PARTIAL DAY, nonpublic, nonsectarian SCHOOL placement	Contract Cost:
	RESIDENTIAL, nonpublic, nonsectarian SCHOOL placement (Use only if your agency is paying residential costs.)	Contract Cost:
	FULL DAY, nonpublic, nonsectarian AGENCY placement	Contract Cost:
	PARTIAL DAY, nonpublic, nonsectarian AGENCY placement	Contract Cost:

5.	Out-of-State Pupil Placement and Costs (continued).
6.	Related Services. List and identify cost of related service(s). Use additional sheets, if necessary.
7.	Describe the efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination, thereof, within the State of California.

**TRAVEL REIMBURSEMENT GUIDELINES FOR OUT OF COUNTY RESIDENTIAL
NONPUBLIC SCHOOLS (Exhibit A)**

Your child may be enrolled in a residential school outside of Santa Cruz County. You or your child's travel associated with the child's initial placement, subsequent therapeutic visits for you to meet with your child and his/her therapist at the Residential Nonpublic School or your child's therapeutic visits home may be reimbursable by the Local Education Agency (LEA). The reimbursement of one round trip per quarter for a total of four **(4) round trips per fiscal year (July 1-June 30)** is provided when procedures are followed, documentation requirements are met and approval is given by the LEA. Reimbursement will be provided for transportation, lodging, and related costs as specified below for a **maximum of two (2) nights and three days per visit**. **Since the purpose of the visit is to engage in therapy with your child, visitations must be scheduled on weekdays (Monday through Friday) and excluding holidays that fall on weekdays.** Only pre-approved therapeutic visits requested in writing by the NPS Therapist for family therapy will be authorized for reimbursement.

Please use *Travel Reimbursement Claim Form* (Exhibit B). All travel must be approved for initial placements, family therapy/counseling, and therapeutic home visits.

TRAVEL REIMBURSEMENT CLAIM FORM - (Exhibit B)

NPS Student _____ Nonpublic School/Residential _____

Name of person submitting claim: _____

Address: _____ Phone: _____

Person Traveling: _____ Signature of Person traveling: _____

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Beginning date of travel: _____ Ending date of travel: _____ Family Therapy Date(s) _____

TRANSPORTATION (Air, Car Rental (max two days), Shuttle, Taxi)	DAY 1 DATE:	DAY 2 DATE:	DAY 3 DATE:
Type: _____	\$ _____	\$ _____	\$ _____
Type: _____	\$ _____	\$ _____	\$ _____
Type: _____	\$ _____	\$ _____	\$ _____
Type: _____	\$ _____	\$ _____	\$ _____
STANDARD HOTEL RATE (Maximum daily rate - \$ 75.00)	\$ _____	\$ _____	\$ _____
ADULT DAILY MEAL ALLOWANCE Limits per adult per day: Breakfast: \$ 7.00 Lunch: \$10.00 Dinner: \$ 23.00	B: \$ _____ L: \$ _____ D: \$ _____ Total _____	B: \$ _____ L: \$ _____ D: \$ _____ Total _____	B: \$ _____ L: \$ _____ D: \$ _____ Total _____
OTHER RELATED EXPENSES _____	\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____

- ☐ All requests for reimbursement must be accompanied by itemized, original dated receipts. No reimbursement shall be made without such receipts. Receipts must specify date and the exact cost of each item for which reimbursement is requested.
- ☐ Organize receipts by date and submit no later than 30 days after travel
- ☐ Keep copies for your files
- ☐ Allow 45 business days for review and receipt of payment

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SURROGATE PARENTS

12.1	BASIC CRITERIA FOR APPOINTING A SURROGATE PARENT	12-1
12.2	SELECTION OF SURROGATE PARENT	12-1
12.3	ROLES AND RESPONSIBILITIES	12-2
12.4	ACCESS TO STUDENT RECORDS	12-3
12.5	TERMINATION OF SURROGATE PARENT APPOINTMENT	12-3
	APPENDIX A – SURROGATE PARENT REQUEST FORM.....	12-5
	APPENDIX B – APPOINTMENT OF PARENT SURROGATE.....	12-6
	APPENDIX C – APPOINTMENT OF EDUCATIONAL REPRESENTATIVE.....	12-7

SURROGATE PARENT PROCEDURES

12.1 BASIC CRITERIA FOR APPOINTING A SURROGATE PARENT

The LEA shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the LEA that the child needs a surrogate parent. Determination of need for a surrogate parent shall be made when one or more of the following circumstances occur:

1. The child is adjudicated a dependent or ward of the court either at the time of a referral of the child to the LEA for special education and related services or in cases where the child already has a valid IEP and the court has specifically limited the right of the parent or guardian to make educational decisions for the student, or the student has no responsible adult to represent him or her;
2. No parent for the child can be identified;
3. The local educational agency, after reasonable efforts, cannot discover the location of a parent; or
4. The child is an unaccompanied, homeless youth as defined in the federal McKinney-Vento Homeless Assistance Act.

A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law. (26.5 Gov. Code § 7579.5(a)(1)-(3) and § 7579.6(a)-(b))

12.2 SELECTION OF SURROGATE PARENT

When appointing a surrogate parent, the LEA shall, as a first preference, select a relative caretaker, foster parent, or court appointed special advocate, if any of these individuals exist and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the LEA 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 LEA shall appoint another surrogate parent. As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

The surrogate parent shall have all of the authority, rights, and responsibilities of a parent/guardian in matters related to the provision of special education and related services. He or she must:

1. Remain free of all conflicts of interest.
2. Hold all information related to the assigned student(s) in strictest confidence.

3. Perform all of the duties required of the surrogate parent in state or federal laws or regulations and local policy and procedures.

Except for individuals who have a conflict of interest in representing the child, 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 a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the LEA shall terminate the appointment and appoint another surrogate parent.

Appointment of surrogate parents shall be documented through completion of the SELPA *Appointment of Surrogate Parent* form.

It is the policy of the North Santa Cruz County Special Education Local Plan Area (SELPA) that no individual may serve as a surrogate parent who is found to have a conflict of interest:

1. Is an employee of any public or private agency involved in the education or care of the child.
2. Is the owner or employee of a licensed children's institution, residential medical facility or other similar facility with an interest in the education or care of the child. This prohibition does not include foster family homes unless the foster parent is deemed to have a conflict of interest as determined by the SELPA director.
3. Is the operator or employee of any private agency involved in the provision of educational or related services to the pupil.
4. Served in a voluntary capacity, including membership on the board, of any public or private agency involved in the education, care, or provision of services to special education pupils.
5. Has any other interests, including institutional or other bias that might restrict or interfere with his or her ability to advocate for all of the services required to ensure a free appropriate public education for the assigned individual with exceptional needs.

12.3 ROLES AND RESPONSIBILITIES

A surrogate parent shall serve as the child's parent, and have the same rights relative to the child's education as that of a parent. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in all other matters relating

to the provision of a FAPE. This representation includes provision of written consent to the IEP, non-emergency medical services, mental health treatment services, and/or occupational or physical therapy services. He or she may sign any consent relating to IEP purposes. The surrogate parent is required to meet with the child at least one time.

(26.5 Gov. Code § 7579.5(c)-(d))

12.4 ACCESS TO STUDENT RECORDS

The surrogate parent retains the same rights as a parent/legal guardian to access student records. He or she must request copies of school records and other records in the same manner that is required by the parent/legal guardian.

Due to the continual need for confidentiality, when a surrogate parent discontinues representing a specific student, he or she must return to the district all copies of the student's records in his or her possession.

12.5 TERMINATION OF SURROGATE PARENT APPOINTMENT

Only the SELPA Administrator/LEA Director may terminate a surrogate parent's appointment. The SELPA Administrator shall terminate the appointment of a surrogate parent, when the LEA Special Education Director in which the student is educated notifies the SELPA Administrator of any of the following conditions:

1. Notice is received from the court that the student is no longer a dependent or ward of the court, under Section 300.601 or 602 of the Welfare and Institutions Code. A copy of said notice should be forwarded to the SELPA Administrator within two working days of receipt.
2. Notice is received from the court that the right of the parent or legal guardian to make educational decisions for the student, who is a ward, has been reinstated. A copy of said notice should be forwarded to the SELPA Administrator within two working days of receipt.
3. The student reaches the age of majority, as documented by the LEA or SCCOE.
4. The student exits from the special education, as documented by an IEP team.
5. The parent or guardian appears and assumes the responsibility for making educational decisions for the student.

6. The surrogate parent receives an unsatisfactory evaluation, and displays no apparent improvement following the evaluation. Termination, based upon the unsatisfactory evaluation, shall be at the discretion of the SELPA Administrator.
7. The surrogate parent is alleged to have committed a misdemeanor involving the abuse or neglect of others or contributing to the delinquency of minors, or any felony.
8. A surrogate parent is found to have a conflict of interest:
 - a. If the SELPA Administrator determines that a conflict of interest exists, it shall be documented and the LEA Director of Special Education shall be notified of same within two working days.
 - b. The surrogate parent takes action, which threatens the safety or well-being of the assigned student.

The LEA Director of Special Education shall investigate the allegations of such action and report the results of said investigation to the SELPA Administrator as soon as possible, but no later than 30 days following the original report of the allegations.

A student, whose surrogate parent has been terminated, shall be so notified by the LEA Director of Special Education in which the student is educated.

Notice of termination shall be documented by a phone call or certified mail, with return receipt requested.

A student, who remains eligible for the services of a surrogate parent, shall be assigned an interim or new surrogate parent within two working days, or as soon as possible.

NORTH SANTA CRUZ COUNTY SPECIAL EDUCATION LOCAL PLAN AREA

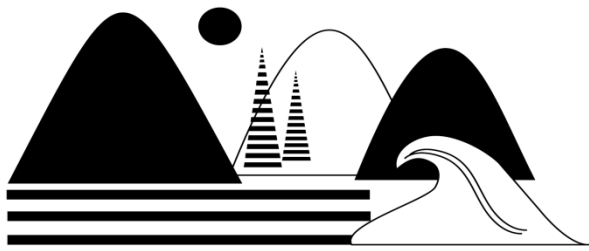
REQUEST FOR SURROGATE

Person Requesting Surrogate _____ Title _____ Phone _____
 Social Worker _____ County _____ Phone _____
 Position _____ Disability of Student _____
 School/LEA _____ Student Name _____
 Street Address _____ Age/Birthdate _____
 City _____ Grade _____
 Phone _____ Parent/Guardian _____

Residence Type: ☐ Licensed Children's Institution ☐ LCI Foster Family ☐ Relative ☐ Foster Family

Parent Representation Status	Please Answer Yes/No
Parent Education rights have been limited by Court (The authority of the court to remove the parents' rights is included in A.B. 1528 (Section 6, 7). Wards or dependents of the court must continue to be represented by their parent unless the court has specifically limited parental rights to represent the child for educational purposes.) If yes, please explain: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
No parent can be identified.	<input type="checkbox"/> Yes <input type="checkbox"/> No
No parent is locatable.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Both parents are not locatable after three (3) documented search attempts.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Documented History by Social Services or other agencies as having conducted a reasonable search with verification that no parent, guardian, or adult with custody of the student can be identified.	<input type="checkbox"/> Yes <input type="checkbox"/> No
DOCUMENTATION OF SEARCH ATTEMPTS FOR MOTHER: (Reasonable efforts shall include at least three attempted contacts by telephone, home visits, regular mail, attempted faxes or registered letters sent to the last previously known address of the parent, guardian, or conservator.) Additional Comments:	Date: _____ Method: _____ _____ _____
DOCUMENTATION OF SEARCH ATTEMPTS FOR FATHER: (Reasonable efforts shall include at least three attempted contacts by telephone, home visits, regular mail, attempted faxes or registered letters sent to the last previously known address of the parent, guardian, or conservator.) Additional Comments:	Date: _____ Method: _____ _____ _____
Is the student an emancipated minor, over 18 years of age or married? If yes, please indicate which of the above.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was the student voluntarily placed in a residential facility? (This includes AB 3632 residential placements)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there a need for an interim Surrogate Parent for an immediate educational placement, while the status of location of the student's parents is researched?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(For office use only) Does this student qualify for a Surrogate Parent? <input type="checkbox"/> Yes <input type="checkbox"/> No Comment(s): _____ _____ _____	

Please send request to Local School District



APPOINTMENT OF PARENT SURROGATE

NORTH SANTA CRUZ COUNTY SELPA

400 Encinal Street
Santa Cruz, CA 95060
PHONE: (831) 466-5700
FAX: (831) 466-5607

Student: _____ Date of Birth: _____ Date: _____

APPOINTMENT

I appoint _____ to act as surrogate parent in connection with the education the above named student.

This representative shall have full parental authority in matters relating to the identification, assessment, instructional planning and development, educational placement, developing and reviewing/revising the Individual Education Program or the Individualized Family Service Plan, utilization of procedural safeguards, and other matters relating to the provision of a free appropriate public education of this child.

This appointment shall remain in effect until any of the following occur:

1. The student's parent is located.
2. An agency with legal authority appoints an education representative.
3. The surrogate parent is unwilling or unable to carry out his or her responsibilities in the best interest of the student.
4. The surrogate parent develops a conflict of interest in the above matter.

Name of Special Education Administrator: _____

Signature: _____ Date: _____

Address: _____ City: _____ State: _____ Zip Code: _____

ACCEPTANCE OF APPOINTMENT

I, _____, hereby accept the above appointment.

At such time as I am unable or unwilling to continue this appointment, I shall notify the administrator designated above. To the best of my knowledge, I do not have a conflict of interest that would disqualify me from acting as a surrogate parent. I have been provided with information about the special needs of my assigned student, local programs and related services, procedural safeguards, and the time required to serve as a surrogate parent. I agree to maintain all student records and information in a confidential manner. Upon termination of this agreement, I will return all such documents to the administrator named above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions that are found to be wanton, reckless, or malicious.

Signature of Surrogate Parent: _____ Date: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Home Phone: _____ Work Phone: _____ Cell Phone: _____

400 Encinal Street
Santa Cruz, CA 95060
PHONE: (831) 466-5700
FAX: (831) 466-5964

APPOINTMENT

This representative shall have full parental authority in matters relating to the identification, assessment, instructional planning and development, educational placement, developing and reviewing/revising the Individual Education Program (IEP) or the Individualized Family Service Plan (IFSP), utilization of procedural safeguards, and other matters relating to the provision of a free appropriate public education of my child or myself.

1. I notify the LEA special education administrator that this appointment is withdrawn (a parent or adult student may do this at any time).
2. The representative is unwilling or unable to carry out his or her responsibilities in the best interest of my child or myself.
3. The representative develops a conflict of interest in the above matter.

Any specific conditions or exceptions to this appointment are noted below:

[illegible]

Signature of Witness: _____ Date: _____

ACCEPTANCE OF APPOINTMENT

Signature of Witness: _____ Date: _____

LOW INCIDENCE PURCHASING

13.1	SUMMARY OF LEGAL REQUIREMENTS.....	13-1
13.2	RESPONSIBILITY	13-1
13.3	ELIGIBILITY.....	13-2
13.4	LOW INCIDENCE PURCHASING GUIDELINES	13-3
	13.4. A. LOW INCIDENCE FUNDING PARAMETERS.....	13-3
	13.4. B. PROCEDURES.....	13-3
	13.4. C. CAUTIONS.....	13-4
	13.4. D. LOW INCIDENCE APPROVAL PROCESS	13-5
	13.4. E. STUDENT MOVEMENT	13-5
	13.4. F. EQUIPMENT.....	13-6
	13.4. G. MANAGEMENT INFORMATION DOCUMENTATION	13-6
	13.4. H. DEFINITION OF LOW INCIDENCE DISABILITIES.....	13-6
13.5	LOW INCIDENCE FUNDING COMMITTEE GUIDELINES.....	13-7
13.6	LOW INCIDENCE EQUIPMENT PROPERTY LOAN GUIDELINES	13-10
APPENDIX A:	LOW INCIDENCE REQUEST FORM	13-11
APPENDIX B:	LOW INCIDENCE MOVEMENT REASSIGNMENT FORM	13-13
APPENDIX C:	LOW INCIDENCE PROPERTY LOAN FORM	13-14

LOW INCIDENCE FUNDING GUIDELINES

As part of the Local Plan submitted to the State, each SELPA shall describe how specialized books, materials, equipment and services will be distributed within the SELPA. This policy has been developed to provide a summary of legal and local requirements and guidelines for students with Low Incidence disabilities. In addition to this policy, all requirements outlined under the Annual State Low Incidence Funding Update will be observed.

13.1 SUMMARY OF LEGAL REQUIREMENTS

Low Incidence Disability is defined as a severe disabling condition with an expected incidence rate of less than one percent of total statewide enrollment in special education. Ed code sections relevant to Low Incidence funding and accountability are listed below.

Low Incidence Disabilities include:

- Hard of Hearing (HH)
- Deafness (DEAF)
- Visual Impairment (VI)
- Orthopedic Impairment (OI)
- Deaf-Blindness (DB)

Code	Disability Category *
220	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.
230	Deafness (DEAF): Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through learning, with or without amplification, which adversely affects educational performance. (34 CFR Sec. 300.8(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.
250	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 Sec. 300.8(c)(13)).
270	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 Sec. 300.8(b)(6) Sec. 300.8(c)(8))

300	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 Sec. 300.8(c)(2)).
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*If you have a student with Multiple Disabilities and one eligibility is a Low Incidence disability then make sure to list the Low Incidence disability as Secondary Disability in order to generate funds.

Low Incidence (LI) funds are for use on behalf of students having an LI **primary or secondary disability** through the assessment and IEP process. The funds are provided to each SELPA through the CA Department of Education and are listed with other special education entitlements on the Funding Exhibits. The allocation of LI funds to the SELPA is based on the prior year CALPADS Census submission in the categories listed above.

Education Code Section 56836.22 provides for funds to purchase “specialized” books, materials and equipment as required under the student’s Individualized Education Program (IEP) for students with low incidence disabilities as defined in Section 56026.5

As a condition of receiving these funds, the SELPA shall ensure that:

- The appropriate books, materials and equipment are purchased;
- The use of items is coordinated as necessary; and
- The books, materials and equipment are reassigned within the SELPA to other students with Low Incidence Disabilities once the student that originally received the items no longer needs them.

The California Department of Education’s Clearinghouse for Specialized Media and Technology (CSMT) is a resource that may assist in sharing accessible instructional materials or equipment related to supporting students with visual impairment amongst LEAs. The CSMT provides, at no cost, accessible versions (braille, large print, and audio) of state-adopted instructional materials for students and coordinates the Federal Quota Program, a resource to supply eligible visually impaired students with additional instructional materials. More information is available at:

- [*Clearinghouse for Specialized Media & Technology - Publications \(CA Dept of Education\)*](#)
- [*About Federal Quota | American Printing House \(aph.org\)*](#)

Low Incidence funds are for **materials and/or services** for students with an LI disability. The requirement to track equipment has changed, but it is recommended that LEAs consider a tracking and monitoring system for equipment purchased with these funds. The LEA or SELPA may consider the following (CDE, 2014) when purchasing materials and/or funding services through LI Funding. The materials and services should be:

- Required for the student to meet IEP goals and objectives;
- Required for the student to access general education;
- Specialized as it relates to a need or the needs of the LI disability;
- Identified in a comprehensive evaluation completed by credentialed staff or a provider and who is knowledgeable of the LI disability area(s).

Currently, there are no specific tracking or documentation requirements of fund expenditures, but students should have an appropriate eligibility category and appropriate services on their IEPs.

LEAs may wish to consider utilizing Function Codes in SACS software for services or personnel in order to have internal documentation of expenditures, as the Annual Budget Plan does ask for Low Incidence expenditure estimates for each year.

Service Codes

The IEP team determines the services for the student. A student must have a service code identified in their IEP that is appropriate to the service that is being provided. A student with a specified LI disability typically has one or more of the following as noted below, all of which are allowable services to be funded with LI funds:

Code	Service Description
610	Specialized services for low incidence disabilities: Low incidence services are defined as those provided to the student population who have orthopedic impairment (OI), visual impairment (VI), who are deaf, hard of hearing (HH), or deaf-blind (DB). Typically, services are provided in education settings by an itinerant teacher or an 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. (5 CCR sections 3051.16, 3051.18; 34 CFR Section 300.34)
710	Specialized deaf and hard of hearing 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. (5 CCR sections 3051.16, 3051.18; 34 CFR Section 300.34)
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. (5 CCR Section 3051.16; 34 CFR Section 300.34 (c)(4))
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. (5 CCR Section 3051.2; 34 CFR Section 300.34 (c)(1))

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; and 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. (5 CCR Section 3030(d); 30 EC Section 56364.1)
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. (5 CCR Section 3051.3; 30 EC Section 56363; 34 CFR Section 300.34 (c)(7))
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. (5 CCR Section 3051.16; 30 EC Section 56363; 34 CFR Section 300.8 (c)(13))
740	Specialized orthopedic services: Specially designed instruction related to the unique needs of students with orthopedic disabilities, including specialized materials and equipment. (5 CCR sections 3030(e), 3051.16; 30 EC Section 56363; 34 CFR Section 300.8 (c)(8))
745	Reader Services: (5 CCR Section 3051.16)
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 or 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. (5 CCR Section 3051.16)
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. (5 CCR Section 3051.16)

Reference Education Code

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." **EC §56345(b)(5)** states, "When appropriate, the individualized educational program shall also include...For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to §56136."

EC §56136 requires that: 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(b)(16) states the Related Services "may include but not be limited to: Specialized services for low incidence disabilities, such as readers, transcribers, and vision and hearing services."

EC §56363(b)(16) states the Related Services "may include but not be limited to: Specialized services for low incidence disabilities, such as readers, transcribers, and vision and hearing services."

These services are further defined in **California Code of Regulations, Title 5, §3051.16:**

"Specialized Services for low incidence disabilities may include: (b) Specialized services related to the unique needs of pupils with low incidence disabilities provided by qualified individuals such as interpreters, note takers, readers, transcribers, and other individuals who provide specialized materials and equipment."

EC § 56364.1 Notwithstanding the provisions of Section 56364.2, pupils with LI disabilities may receive all or a portion of their instruction in the regular classroom and may also be enrolled in special classes taught by appropriately credentialed teachers who serve these pupils at one or more school sites. The instruction shall be provided in a manner which is consistent with the guidelines adopted pursuant to Section 56136 and in accordance with the individualized education program.

EC § 56836.04.

(a) The Superintendent continuously shall monitor and review all special education programs approved under this part to ensure that all funds appropriated to special education local plan areas under this part are expended for the purposes intended.

(b) Funds apportioned to special education local plan areas pursuant to this chapter are to assist local educational agencies to provide special education and related services to individuals with exceptional needs and shall be expended exclusively for programs operated under this part.

(Amended by Stats. 2007, Ch. 56, Sec. 91. Effective January 1, 2008.)

Notwithstanding the provisions of subparagraphs (A) through (F), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost sharing and reimbursement program of high need, LI, catastrophic, or extraordinary aid to local educational agencies that provides services to high need students based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in subparagraph (C)(ii)(I).

13.2 RESPONSIBILITY

Low Incidence funding is legally the responsibility of the SELPA, including accountability of how the funds are used and reassignment of specialized books, materials and equipment within the SELPA and sharing with other SELPAs. To meet this responsibility, a Low

Incidence Committee has been established which is comprised of educators knowledgeable about Low Incidence disabilities. The North Santa Cruz County SELPA Low Incidence Committee has established procedures and guidelines for purchases through the Low Incidence fund.

The Low Incidence Committee may include:

Specialist for the Visually Impaired
Specialist for the Orthopedically Impaired
Specialist for the Hard of Hearing or Deaf
Speech/Language Pathologist
Audiologist
Occupational Therapist
Physical Therapist
Teacher or Specialist knowledgeable in assistive technology
SELPA Administrator

13.3 ELIGIBILITY

Funds may be used for all students with the Low Incidence disabilities as defined in law, for both primary and secondary eligibility categories. Some students counted as having an orthopedic impairment may not be eligible because they do not have a “**severe** orthopedic impairment” as per the definition of Low Incidence disabilities in Education Code 56026.5. Students who have severe orthopedic impairments require highly specialized services, equipment and materials per Education Code Section 5600.5(b).

Education Code Section 56320(g) requires that persons knowledgeable of that disability shall conduct the assessment of a pupil with a suspected low incidence disability. A low incidence disability does not guarantee the use of low incidence funds. The IEP team reviews assessment data and determines the most appropriate items or services needed to address the student’s unique educational needs. These items or services may, or may not be “specialized.” Items, which are found in most classrooms, would not be acquired through low incidence funds.

LOW INCIDENCE GUIDELINES

These guidelines were developed for LEAs serving students with severe low incidence disabilities who require specialized services and/or equipment and specialized materials to benefit from education.

A. Low Incidence Funding Parameters

1. Prior to requesting purchase of new equipment the district/program should check other sources such as the Clearinghouse for Specialized Media and Technology, and SELPA office for any availability.
2. Since Low Incidence funds are limited to expenditures on books, materials, and equipment, for students with low incidence disabilities, the purchase must relate to the unique educational needs resulting from the low incidence disability as indicated in the IEP of eligible students.
3. Equipment purchased with LI funds is the property of the State of California and is managed

by the North Santa Cruz County SELPA.

B. Procedures

1. **Determine Eligibility:** The IEP team determines eligibility for a low incidence disability. The Low Incidence eligibility must be documented on the IEP as a primary or secondary disability.
2. **Determine Student Needs:** The IEP team determines the student's educational needs for item(s) through educational assessments and/or documentation.
 - a. **Educational Assessment**

The personnel who assess the student shall prepare a written report, or reports as appropriate, of the results of each assessment. The report shall include, but not be limited to, the need for specialized services, materials, and equipment for students with low incidence disabilities consistent with guidelines established pursuant to §56136..
 - b. **IEP Documentation:** The requirements must be written into the IEP but are not limited to the following:
 - How the item will assist the student's instruction in accordance with the IEP.
 - How often the item will be used or is needed.
 - How the item facilitates participation in the classroom.
 - Specific projected student outcomes.
 - Justification statement that is related to the student's unique educational needs as identified in the assessment information. (See IEP Team's Rationale on Request Form)
 - Assessment, goals and objectives that are correlated to the justification statement of need.
 - Present level that reflects assessment information and need for support.
 - Identification of personnel who will provide support to the student and will monitor and inventory adapted equipment and/or FM System (List name & position).
3. **Submission to LI Committee:** Complete the "Low Incidence Request" Forms: The LEA or SCCOE Early Start Special Education Director must sign the request form. Include accurate ordering information including tax and shipping.
4. **Attach Relevant Current Annual IEP Forms:** IEP must be signed and legible. Attach amendment IEPs as appropriate. The minimum IEP forms that should include:
 - Info/Eligibility
 - Special Factors
 - Related Goal/s
 - Any additional documentation relative to support this request
5. **Send the Request Packet:** Request packet must be sent to the SELPA office for presentation to the Low Incidence Committee for review. The SELPA Administrator signs approval. After approval, the request packet will be processed for ordering by the SELPA office. The LEA should keep a copy of the request form for their records. If the LI request has been denied,

the decision can be appealed by meeting with the SELPA director to provide additional justification for the LI request.

C. Cautions:

1. Do not list specific items in the student's IEP using specialized brand names. Goals/Special Factors should be addressed generically. What the IEP must show is that the student has a unique educational need directly related to the low incidence disability and that this need can only be met with specialized books, materials, equipment and services. Goals must be written to address the unique educational needs, not the desired items or service.
2. If the annual IEP goals do not specifically address this educational need, then an amendment IEP with goals that reflect the need for specialized books, materials, and equipment must be written and submitted.
3. There is no guarantee of approval by the Low Incidence Committee. Once specific items are listed on the IEP, the district is ultimately responsible for purchasing the equipment.

D. Low Incidence Committee Approval Process

1. Dates of Review: The Low Incidence Committee will meet regularly to review the low incidence requests. All requests must be submitted to the SELPA office.
2. The district/program will receive an approval or denial response after the meeting. Notation of discussion or reason for denial will be made.
3. Purchasing the LI Item: Once approval is granted, the SELPA will process the purchase order. An *inventory tag* must be attached to equipment. Low Incidence inventory will be recorded by personnel on an annual spreadsheet.
4. Reimbursement: If an LEA purchases equipment prior to accessing the Low Incidence Committee, then a reimbursement request may be made. The committee will consider the request on its own merit. The fact that it was already purchased will have no bearing on the approval or denial of the request. It is important that all documentation is included with the request. Use Reimbursement for Low Incidence Funds Equipment form for this purpose.

E. Student Movement

1. Student Moves Into the SELPA: When a student moves into the LEA with low incidence equipment already purchased for the student in their last placement, it is the responsibility of the LEA of attendance to secure and document that the equipment be transferred.

If equipment is sent with the student, an inventory form should be completed and sent to the SELPA so it can be put into the Low Incidence Inventory database.

2. Student moves out of SELPA: Per CDE FAQs about Low Incidence funds: "if the books, materials and equipment are still needed by other students with low incidence disabilities in your SELPA, there is no requirement to send it with the student who moved. Providing these resources is the responsibility of the SELPA where the student now resides. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials. The California Department of Education may be contacted for assistance in locating another SELPA that has need of the unused equipment, books or materials."

3. Student graduates from high school: A graduating high school student who has a low incidence disability cannot use the specialized equipment purchased for him by his SELPA through low incidence funds in college. To do so would be a gift of public funds which is a violation of law. Pursuant to Education Code 56822 "Books, materials and equipment purchased with low incidence funds remain the property of the state. Since the student has graduated from high school, he is no longer eligible to receive special education services from your SELPA. If your SELPA no longer has use for the books, equipment or materials the California Department of Education should be notified so that we can find another SELPA that has need of these resources. If the student needs similar equipment upon graduating or aging out, he/she should contact the Department of Rehabilitation.

F. Equipment

1. Lost or stolen equipment will not be replaced using low incidence funds. The LEA is responsible for replacement of equipment. Reimbursement to districts for costs of replacing lost or stolen equipment can be requested if money is available at the end of year.
2. Item No Longer Needed: If the item(s) has been purchased for one student and is no longer being used by that student, notify the SELPA office. The item can be reassigned to another student who is LI eligible. The IEP for that student must indicate the need for LI equipment. Use Transfer of Low Incidence Equipment/Materials form. Notify the SELPA of any action taken with LIF equipment.
3. IEP teams may want to recommend a trial basis on a piece of equipment. This can be accomplished through a lease agreement with the vendor prior to purchase.

G. Management Information Documentation:

An IEP team member will ensure that the student is listed with a Low Incidence disability in the Management Information System (MIS which is currently SEIS) through SELPA. It can be listed as Disability 1 or Disability 2.

H. Definition of Low Incidence Disabilities

Visual Impairment

To be eligible for special education, a "pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance."

When an assessment of a student with a visual impairment determines that he or she has educational needs that cannot be met without special education and related services, the student is provided with instruction, specialized services and materials and equipment in accordance with his or individualized education program (IEP).

The term *visual impairment* includes, for educational purposes:

- Students who have functional blindness (who rely basically on senses other than vision as their major channels for learning).
- Students with low vision (who use vision as a major channel for learning).

- A visual impairment that does not include perceptual or visual motor dysfunction resulting solely from a learning disability.

Severe Orthopedic Impairment

The term orthopedic impairment includes those impairments caused by congenital anomalies, diseases, and other conditions.

Conditions resulting in severe orthopedic impairments include, but are not limited to: cerebral palsy, muscular dystrophy, spina bifida, spinal cord injuries, head traumas, juvenile rheumatoid arthritis, and tumors.

- These conditions may improve, remain stable, or deteriorate; and changes in characteristics may occur at varying rates.
- A severe orthopedic impairment is persistent and significantly restricts an individual's normal physical development, movement, and activities of daily living.

As a result, this impairment may affect the pupil's educational performance. Accompanying sensory, intellectual, behavioral, learning, and medical problems often occur that may affect the pupil's school performance.

Hearing Impairment

The student with a hearing impairment is one whose hearing loss adversely affects his or her developmental growth or educational performance, or both, to such an extent that special education and related services are required. Hearing impairment is defined as an impairment which is permanent that adversely affect an individual's:

- Expressive and/or receptive communication.
- Developmental growth, and or educational performance and makes it difficult, but does not preclude, the processing for linguistic information through hearing, with or without amplification.

NORTH SANTA CRUZ COUNTY SELPA LOW INCIDENCE FUNDING COMMITTEE GUIDELINES

Low Incidence Fund for Equipment

Documentation needed:

Appropriate required documents (see forms) submitted including current assessment/screening report by specialist knowledgeable in the specific Low Incidence disability with recommendation for equipment.

Equipment Covered:

Current inventory of equipment not currently in use will be considered first.

Equipment must meet the unique needs of the student and be adaptive and specialized.

Equipment not covered:

Lost or stolen equipment will not be replaced, but will be considered for reimbursement if there are funds at the end of the year.

Unused funds:

Reimbursement to districts for costs of replacing lost or stolen equipment if money is available at the end of year.

Unused funds will be rolled into the next fiscal year.

Low Incidence Fund for Services

Beginning in 2020-21, after setting aside money annually from the Low Incidence revenue to maintain a Low Incidence Equipment Fund of \$100,000 (including any rollover from prior year), the remaining balance of that revenue will be divided evenly and applied to OI, VI, and DHH regional services “off the top” to offset the cost of Regional Services for Low Incidence students as outlined in the AB602 Fiscal Allocation Plan.

Low Incidence Fund for Other Items Covered:

Repair of Audiological equipment that was previously funded through Low Incidence Reimbursement for Repair of previously purchased LIF Equipment (with the exception of Audiological equipment). Districts are required to repair LIF equipment and then seek reimbursement from LIF Service Fund.

Warranty Renewal

Replacement of batteries on previously purchased LIF equipment

Services not covered:

- Assessments
- Assistive Technology services

Low Incidence Equipment Property Loan Guidelines

Home Use of Low Incidence Equipment

In some cases Low Incidence Equipment may need to be used in the home for the student to receive free appropriate public education. If equipment will be used in the home it is important to complete the *Low Incidence Property Loan* form.

If home use of the equipment/material is deemed appropriate, the IEP team must document on the IEP meeting notes the rationale of equipment/material use in the home. Also, the parents must agree in writing to:

1. Secure the equipment and supervise proper use, ensuring that there will be no modifications of or additions to equipment, existing programs or software.
2. Provide necessary and safe transportation of the equipment between home and school.
3. Acknowledge that the equipment was purchased for student use with state funds and remains the property of the State of California.
4. Agree that equipment will not be used by other members of the family or by friends.
5. Assume responsibility for the replacement or repair of equipment if lost or damaged while at home.
6. Receive training in the use of the equipment before it can be sent home.
7. Acknowledge that the equipment may be required to be returned to school at any time it is determined that the equipment is not being used properly, or when the IEP team determines that use at home and/or use at school is no longer required for the student to access curriculum.
8. Return the equipment to the school district (LEA) should the student move out of the district in order to arrange for transfer of the equipment to the new district of the student or to another student in the same LEA.



**NORTH SANTA CRUZ COUNTY
SPECIAL EDUCATION LOCAL PLAN AREA**

LOW INCIDENCE EXPENDITURE REQUEST FORM

Instructions:

1. Complete this form for materials/equipment only, e.g., computer, monitor, printer. Do not include general instructional materials or consumable supplies.
2. Include order form from company that purchase will be made from.
3. If the request is for a specific student, the following IEP pages must be attached.
 - a. Info/Eligibility
 - b. Special Factors
 - c. Related Goal/s
 - d. Any additional documentation relative to support request
4. Program related requests must be accompanied by a rationale.
5. Forward completed form(s) to the responsible LEA Special Education Director.
6. Approved forms must be submitted to SELPA.

Submitted by: _____ School/Site and Teacher _____ Contact Information: _____ Program: _____
LEA _____ Date _____ Check one: ☐ Pupil Request ☐ Program Request

Please CIRCLE one: **5710 – Infant 0-2 years** **5730 – Preschool 3- 5 years** **5750 – Severely Disabled 5 (K) – 22**
Please CIRCLE one: **1110 – SDC** **1130 – Supplemental Aids and Services in Regular Classrooms**

Quantity	Description	Est. Cost	Extension	Invoice Amount

Subtotal _____
Shipping _____
Tax _____
Total _____

Shipping _____
Tax _____
Total Cost _____

Student's Name: _____

Justification: _____

(Attach more sheets
if necessary) _____

☐ **Urgent** ☐ **Priority Level 1** ☐ **Priority Level 2** ☐ **Priority Level 3**

Recommendation: ☐ **Approved** ☐ **Denied**

Comments: _____

LEA Special Education Director _____

Signature/Date

Program Specialist/Low Incidence Committee Recommendation:
SELPA Director _____

☐ **Approved** ☐ **Denied**
☐ **Approved** ☐ **Denied**

Date _____

Comments: _____

For Office Use Only



Priority Levels URGENT I, II, and III are described as:

Urgent - EQUIPMENT IS REQUIRED FOR THE STUDENT TO ATTEND SCHOOL SAFELY (e.g standing tables)

Level I – EQUIPMENT IS REQUIRED FOR THE STUDENT TO PARTICIPATE IN EDUCATIONAL PROGRAM (e.g. Phonak Ear, Mobility Equipment, Brailer, Augmentative Communication Devices)

Level II – EQUIPMENT WHICH AUGMENTS THE PROGRAM OF THE STUDENT AND ASSISTS PARTICIPATION IN CLASSROOM ACTIVITIES (e.g. modified or adapted equipment or furniture)

Level III – EQUIPMENT WHICH IS USEFUL BUT NON-ESSENTIAL (e.g. toys)

North Santa Cruz County Special Education Local Plan Area Low Incidence Movement/Reassignment/Repair Form

Student: _____ FHI: _____ School: _____
 District/LEA: _____ Contact Person: _____ Date Submitted: _____
 Phone: _____ Email: _____
 Item 1) _____ ID# _____
 Item 2) _____ ID# _____
 Activity Requested: ☐ Movement/Reassignment ☐ Repair ☐ Other (Keep a copy of this form for your files)

Movement/Reassignment

- ☐ 1) Item remains with the student, however location has changed
 Previous location:
 Site: _____ Teacher: _____ Phone: _____
 Move to Location:
 Site: _____ Teacher: _____ Phone: _____
- ☐ 2) Student no longer needs equipment and will be reassigned to another Low Incidence student
 Based on IEP need, reassigned to:
 Student: _____ Site: _____ District: _____
 Teacher: _____ Phone: _____ FHI: _____
 Date of Reassignment: _____
 Other student information as necessary: _____

- ☐ 3) Student no longer needs equipment and is being returned to the LI committee
- ☐ 4) Student has moved out of the North Santa Cruz SELPA and equipment is being reassigned to another Low Incidence qualifying student(s) in the North Santa Cruz SELPA.
- ☐ 5) Student has moved out of the SELPA. Address of new district if known.
 C/O Person: _____
 Address: _____

 Phone: _____

Repair Request

Send the material or equipment to the North Santa Cruz SELPA office along with this form. Describe repair needed. Please be specific and detailed as to the problem. Attach a copy of any warranty or repair information that may come with the item.

Description of repair needed:

 Company: _____
 Address: _____

 Phone: _____ Web Address: _____
 Email: _____

☐ Lost ☐ Stolen

Comments: _____

North Santa Cruz County SELPA Low Incidence Equipment Property Loan Form

Student Name: _____ Current School: _____

Teacher: _____

Service provider who monitors the equipment:

Name: _____ Phone: _____

Date equipment loaned: _____ Return due date: _____

Description of Equipment: _____

Serial Number: _____

Condition of equipment upon loan: _____ (picture if possible)

Condition of equipment upon return: _____ (picture if possible)

Return equipment to: Name _____ Location: _____

Rationale for home use (documented in the IEP): _____

PARENT RESPONSIBILITY

As the parent/guardian of _____, I agree to:

1. Assume responsibility for the loss or damage of equipment.
2. Secure the equipment and supervise proper use.
3. Provide necessary and safe transportation of the equipment between home and school.
4. Acknowledge that the equipment was purchased for student use with State funds and the State retains ownership of the equipment.
5. Receive training in the use of the equipment before it can be sent home.
6. Return the equipment promptly as identified on the agreement.
7. Acknowledge that the equipment may be called back at any time it is no longer needed or that it is not being used properly.
8. Acknowledge that the equipment may be called back for maintenance or calibration if necessary.
9. Return the equipment to the identified service provider should the student move out of the district.

Parent/Guardian signature _____

Date _____

Address (Street _____ City _____ Zip) _____

Telephone _____

Email: _____

LOCAL AGENCY AUTHORIZATION:

Signature of Director of Special Education or Designee _____

Date _____

Copies to: District, service provider, parent/guardian, NSCC SELPA Low Incidence Committee
Updated: 3/31/2010/cknox

RESOURCES

This chapter includes resources from various sources to assist LEAs in providing special education and related services to students with disabilities.

RESOURCES

14.1	ASSISTIVE TECHNOLOGY CHECKLIST	14-1
14.2	AB 167 & AB 490 (FOSTER YOUTH) SUMMARY	14-7
14.3	MCKINNEY-VENTO EDUCATION FOR HOMELESS CHILDREN	14-10
14.4	COMPLAINT AND DISPUTE OVERVIEWS.....	14-17
14.5	FORMAL DUE PROCESS RESOLUTION	14-20
14.6	GRADES, REPORT CARDS, AND TRANSCRIPTS FOR STUDENTS WITH DISABILITIES	14-38
14.7	PROMOTION AND RETENTION OF STUDENTS WITH DISABILITIES	14-40
14.8	SPECIAL EDUCATION ALGEBRA WAIVER DOCUMENTATION.....	14-43
14.8.A	ALGEBRA 1 GRADUATION REQUIREMENT WAIVER REQUEST FORM.....	14-44
14.9	CALPADS.....	14-45
14.10	DESIRED RESULTS DEVELOPMENTAL PROFILE.....	14-48
14.11	CALIFORNIA ASSESSMENT OF STUDENT PERFORMANCE AND PROGRESS (CAASPP)	14-50
14.11.A.	2013-14 CAASPP PARENT GUIDE APRIL 2014.....	14-51
14.11.B.	2013-14 CAASPP TEST, PARTICIPANT & CONTENT GUIDE.....	14-53
14.11.C	CAASPP FREQUENTLY ASKED QUESTIONS & ANSWERS.....	14-54
14.11.D	CAASPP TESTING WINDOWS.....	14-58
14.11.E	CAASPP UNIVERSAL TOOLS, DESIGNATED SUPPORTS & ACCOMMODATIONS FOR CAASPP	14-59
14.11.F	CAASPP TESTING VARIATIONS, ACCOMMODATIONS & MODIFICATIONS	14-69
14.11.G	CAASPP ENGLISH LEARNER TEST VARIATION.....	14-73

14.11.H	ALTERNATE ASSESSMENT PARTICIPATION CRITERIA.....	14-74
14.11.I	CALIFORNIA HIGH SCHOOL EXIT EXAMINATION (CAHSEE)...	14-75
14.12	OT PT COMPARISON – MEDICALLY VS EDUCATIONALLY NECESSARY.....	14-81
14.13	ACRONYMS	14-82

ASSISTIVE TECHNOLOGY

Assistive Technology (AT) is very much a dynamic, interdisciplinary team process, which must be individualized to each student based on current performance and needs. Remember to consider AT on every IEP. Collaborate and work together as an IEP team to document AT use and trial periods.

<u>DO</u>	<u>DON'T</u>
Begin with assessment and present levels of performance in all domains	Put a specific device or system first
Design goals and objectives, based on the present levels and CONSIDER if any AT would be appropriate in order for the student to meet his/her goals	Write goals merely based on a device or system. The AT is the TOOL to help attain the goals
Develop an action plan for each appropriate IEP team member if a trial of a system or device is agreed upon. Also agree upon how documentation will be collected and when it will be reviewed	Leave the IEP meeting without a clear plan in place for documentation and timelines
Begin with the “least restrictive” intervention first	Begin with a laptop if a pencil grip will work. This is <i>not</i> about saving money but more about doing the “least” first and not adding AT that is not necessary or may make the student feel different
Conduct a trial and include the consumer whenever possible	Purchase a device without really researching the features and assume that the student will automatically want to use it
Consider the individual’s present levels and the diagnosis as appropriate to the individual student’s profile but stick to the student’s individual goals and current needs	Assume that all students with the same diagnosis need the same AT
Train staff, family members and all who would interact with the student using the device or system on the specific features including programming etc.	Assume that a school system will program or use device or system just because one has been purchased

Have a “low-tech” backup for all “high- tech” AT applications	Rely solely on a “high-tech” system. There will inevitably be times where devices/systems break down, need repair etc. The individual will still need AT in place in order to participate and meet his/her goals
Try and try and try again. Modify, adapt, individualize, etc.	Give up! Be sure to document progress and make changes based upon individual student needs. Remember AT that was once considered ineffective may be worth revisiting at a later date based on the readiness of the student 94
Work as a team for consideration of AT across settings, activities and people	View AT as an isolated therapy or activity. Keep function first. For example, picture communication systems should not be used only in speech therapy. Repetition in variety of environments is critical
Get creative!	Rely solely on catalogs for purchasing AT items and systems
Consider the present levels of performance and the goals/objectives on the IEP regarding specific AT use	Merely write down that the campus has a computer lab and that the classroom has calculators
Have a stash of batteries, chargers etc. based on the AT in use	Forget the juice! The AT is effective only if it is working. This may fall into an IEP team action plan for roles and responsibilities regarding obtaining batteries etc. and who is responsible for charging the device
Consider AT vendors and companies as “experts” in their specific devices and systems. Contact them for product information, customer service, trainings etc.	Conduct an AT evaluation with a specific vendor representing one product/line. This is never advisable
Conduct an AT evaluation as much as possible in the natural environment. AT trials should also occur in the environment where the student would be accessing the device/systems. An AT evaluation should be an interdisciplinary process and include all the appropriate IEP team members	Use one isolated evaluation session as completely diagnostic of all AT considerations. A clinic-based evaluation can certainly provide valuable information and directions for IEP teams. However, the use and trial of AT should be conducted in the natural environment along with data collection regarding effectiveness of the AT use

ASSISTIVE TECHNOLOGY CHECKLIST EXAMPLES OF ASSISTIVE TECHNOLOGY

California Department of Education

Note: This list is intended to provide examples of assistive technology and should not be misconstrued as a mandate for payment by any agency, including: local education agencies, California Children's Services, the California Departments of Rehabilitation, Developmental Services, or Education.

Writing

- ☐ Mechanics of Writing
- ☐ Pencil/pen with adaptive grip
- ☐ Adapted paper (e.g., raised line, highlighted lines)
- ☐ Slant board
- ☐ Typewriter
- ☐ Portable word processor
- ☐ Computer
- ☐ Other _____

Alternate Computer Access

- ☐ Keyboard with easy access
- ☐ Key guard
- ☐ 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 _____

AB 167 AND AB 490 (FOSTER YOUTH) GUIDELINES

AB 167 - District Graduation Requirement Waiver for Foster Youth

Law: AB 167 (Jan. 2010)
California legislation that exempts foster youth who transfer schools or districts in 11th or 12th grade from local graduation requirements, if they would not be able to reasonably meet these additional local requirements.

Student Impact: Affects foster youth who change school districts in the 11th or 12th grade.

Intent: Foster children who transition to a new school district or school in their junior or senior year of high school are only required to meet state mandated graduation requirements for graduation as listed below:

Each course listed is one year long unless otherwise indicated.

<u>CA State Mandated Graduation Requirements</u>		<u>Sample District Graduation Requirements</u>	
3	English Courses	4	English Courses
2	Math Courses	3	Math Courses including Algebra
2	Science Courses (Biological and Physical)	3	Science Courses (Biological and Physical)
3	Social Studies Courses (US History and Geography; World History, Culture or Geography; one semester of Economics and one semester of Government and Civics)	3	Social Studies (US History; Modern World History; one semester Economics; and one semester in American Government)
1	Visual or Performing Arts or Foreign Language Course	1	Fine Arts or Foreign Language Course
2	PE Courses	2	PE Courses
	Pass CAHSEE	1	Sociology for Living Course
		6	Elective Courses Pass CAHSEE

CAHSEE: All regular education students must pass the CAHSEE. Special Education students are eligible for the CAHSEE waiver.

Exception: If the school district determines the foster youth is able to fulfill the district's requirements to graduate on time, the foster youth must complete the additional requirements.

AB 167 Waiver: The school district of attendance issues an AB 167 Waiver. Contact the District Foster Youth Education Liaison.

Notice Provided: The district must provide notice to the foster youth and educational rights' holder that the waiving of credits needed to graduate may affect the youth's ability to gain admission into post-secondary educational institutions.

Questions: Contact District's Ed Liaisons for Foster and Homeless Ed Services

AB 490 SUMMARY

ENSURING EDUCATIONAL RIGHTS AND STABILITY FOR FOSTER YOUTH --

Effective January 1, 2004, AB 490 (Steinberg), Chapter 862, imposes new duties and rights related to the education of dependents and wards in foster care. The Act's key provisions are as follows:

- Establishes legislative intent that foster youth are ensured access to the **same opportunities** to meet academic achievement standards to which all students are held, maintain stable school placements, be placed in the least restrictive educational placement and, have access to the same academic resources, services and extracurricular and enrichment activities as all other children. Makes clear that **education and school placement decisions** are to be dictated by the **best interest** of the child.
- Creates **school stability** for foster children by allowing them to remain in their school of origin for the duration of the school year when their **placement changes** and remaining in the same school is in the child's best interests.
- Requires county placing agencies to promote educational stability by considering in **placement decisions** the child's school attendance area.
- Requires Local Educational Agencies (LEAs) to designate a staff person as a **foster care education liaison** to ensure proper placement, transfer and enrollment in school for foster youth.
- Makes LEAs and county social workers or probation officers jointly responsible for the **timely transfer of students** and their **records** when a change of schools occurs.
- Requires that a **comprehensive public school** be considered as the first **school placement option** for foster youth.
- Provides that a foster child has the right to remain enrolled in and attend his/her school of origin pending resolution of school placement **disputes**.
- Allows a foster child to be **immediately enrolled** in school even if all typically required school records, immunizations, or school uniforms are not available.
- Requires an LEA to deliver the pupil's **education information and records** to the next educational placement within 2 days of receiving a transfer request from a county placing agency.
- Requires school districts to calculate and accept **credit for full or partial coursework** satisfactorily completed by the student and earned while attending a public school, juvenile court school or nonpublic, nonsectarian school.
- Authorizes the **release of educational records** of foster youth to the county placing agency, for purpose of compliance with WIC 16010, case management responsibilities required by the Juvenile Court or law, or to assist with transfer or enrollment of a pupil.

- Ensures that foster youth will not be penalized for **absences** due to placement changes, court appearances, or related court ordered activities.

Source: Youth Law Center/Children's Law Center of Los Angeles December, 2003

McKinney-Vento Education for Homeless Children and Youth

The McKinney-Vento program is designed to address the problems that homeless children and youth have faced in enrolling, attending, and succeeding in school. Under this program, State educational agencies (SEAs) must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth. Homeless children and youth should have access to the educational and other services that they need to enable them to meet the same challenging State student academic achievement standards to which all students are held. In addition, homeless students may not be separated from the mainstream school environment. States and districts are required to review and undertake steps to revise laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth.

What is meant by the term “homeless children and youth”?

The McKinney-Vento Act defines “homeless children and youth” as individuals who lack a fixed, regular, and adequate nighttime residence. The term

Includes:

- Children and youth who are:
 - sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as *doubled-up*);
 - living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
 - living in emergency or transitional shelters;
 - abandoned in hospitals; or
 - awaiting foster care placement;
- Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children who qualify as homeless because they are living in circumstances described above.

SCHOOL PLACEMENT, ENROLLMENT, AND ELIGIBILITY FOR SERVICES

On what basis does an LEA make school placement determinations for homeless children and youth?

Homeless children and youth frequently move, and maintaining a stable school environment is critical to their success in school. To ensure this stability, LEAs must make school placement determinations on the basis of the “best interest” of the homeless child or youth. Using this standard, an LEA must:

- (a) Continue the child’s or youth’s education in the school of origin for the duration of homelessness when a family becomes homeless between academic years or during an academic year; or for the remainder of the academic year if the child or youth becomes permanently housed during an academic year; or
- (b) Enroll the child or youth in any public school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

How does an LEA determine the child’s or youth’s “best interest”?

In determining a child’s or youth’s best interest, an LEA must, to the extent feasible, keep a homeless child or youth in the “school of origin” unless doing so is contrary to the wishes of the child or youth’s parent or guardian. If an LEA wishes to send a homeless child or youth to a school other than the school of origin or a school requested by the parent or guardian, the LEA must provide a written explanation of its decision to the parent or guardian, together with a statement regarding the right to appeal the placement decision.

Why is it so important to maintain a stable education environment for homeless children and youth?

Changing schools significantly impedes a student’s academic and social growth. The literature on highly mobile students indicates that it can take a student four to six months to recover academically after changing schools. Highly mobile students have also been found to have lower test scores and overall academic performance than peers who do not change schools. Therefore, the McKinney-Vento Act calls for LEAs to maintain students in their school of origin to the extent feasible.

What should a school district consider when determining the extent to which it is feasible to educate a homeless child or youth in his or her school of origin?

As stated above, to the extent feasible, a district must educate a homeless child or youth in his or her school of origin, unless doing so is contrary to the wishes of the parent or guardian. The placement determination should be a student-centered, individualized determination. Factors that an LEA may consider include the age of the child or youth; the distance of a commute and the

impact it may have on the student's education; personal safety issues; a student's need for special instruction (e.g., special education and related services); the length of anticipated stay in a temporary shelter or other temporary location; and the time remaining in the school year.

What procedures must an LEA follow if a dispute arises between a school and a parent or guardian regarding placement of a homeless child or youth?

If a dispute arises over school selection or enrollment, the LEA must immediately enroll the homeless student in the school in which enrollment is sought by the parent or guardian, pending resolution of the dispute. Similar provisions apply to placement of unaccompanied youth. Inter-district enrollment disputes should be resolved at the SEA level.

Homeless families and youth may be unaware of their right to challenge placement and enrollment decisions. Therefore, the LEA must provide the parent, guardian, or unaccompanied youth with a written statement of the school placement decision and the appeal rights. The LEA must refer the unaccompanied youth, parent, or guardian to the LEA liaison, who must expeditiously carry out the dispute resolution process.

When enrollment disputes arise, it is critical that students not be kept out of school. Interruption in education can severely disrupt the student's academic progress.

To avoid such disruptions, LEAs need an established process for resolving school placement disputes. Permitting students to enroll immediately in the school of choice pending resolution of disputes helps provide needed stability.

LEA homeless liaisons help ensure that disputes are resolved objectively and expeditiously. Written notice protects both students and schools by outlining the specific reasons for the school's decision. It facilitates dispute resolution by providing decision-makers with documents to guide their determinations.

In providing special services to homeless children and youth, how does a school or district avoid stigmatizing those children?

As stated above, a district or school may not segregate homeless children and youth from the mainstream school environment. Homeless children and youth are entitled to receive all of the services that are provided to their non-homeless counterparts and in the same setting as their non-homeless peers.

In some circumstances, it may be appropriate to provide additional services to homeless children and youth in a separate setting. In doing so, a district should be careful not to stigmatize these students. If a district does implement a supplemental program exclusively for homeless children, such as a shelter-based evening tutoring program, it should not be called “the homeless tutoring program” or the “shelter tutoring program.” Instead, the district should use a name such as “Discovery Club” or “Homework Club” to avoid stigmatization.

What are a school’s responsibilities for enrolling homeless children and youth?

A school selected on the basis of a “best interest determination” must immediately enroll the homeless child or youth, even if the child or youth is unable to produce the records normally required for enrollment (such as previous academic records, medical records, proof of residency, birth certificates, or other documentation). The enrolling school must immediately contact the school last attended by the child or youth to obtain relevant academic or other records.

If a child or youth needs to obtain immunizations, or medical or immunization records, the enrolling school must immediately refer the parent or guardian to the LEA homeless liaison, who must assist in obtaining the immunizations or records. The records must be maintained so that they are available in a timely fashion when the child enters a new school or school district. To facilitate immediate enrollment, timely transfer of records from school to school should also take into account procedures for State-to-State record transfers.

The McKinney-Vento statute provides a broad mandate to States and districts to change policies or practices that act as a barrier to the enrollment, attendance, and school success of homeless children. It is important for them to review policies and practices on an on-going basis, so that new barriers do not prevent children from receiving the free, appropriate public education to which they are entitled.

What are some steps that LEAs can take to ensure immediate enrollment?

Homeless children and youth often do not have the documents ordinarily required for school enrollment. Enrolling them in school immediately provides these children and youth needed stability and also is a legal requirement.

To facilitate immediate enrollment, LEAs should consider the following practices:

- Train all school enrollment staff, secretaries, guidance counselors, school social workers, and principals on the legal requirements regarding immediate enrollment;
- Review all regulations and policies to ensure that they comply with the McKinney-Vento requirements;

- Develop affidavits of residence or other forms to replace typical proof of residency. Such forms should be carefully crafted so that they do not create further barriers or delay enrollment;
- Develop caregiver affidavits, enrollment forms for unaccompanied youth, and other forms to replace typical proof of guardianship. Again, such forms should be carefully crafted so they do not create further barriers or delay enrollment;
- Establish school-based immunization clinics or other opportunities for on-site immunizations;
- Collaborate with community-based or public agencies to provide school uniforms within a district and among neighboring districts;
- Accept school records directly from families and youth;
- Contact the previous school for records and assistance with placement decisions;
- Develop short educational assessments to place students immediately while awaiting complete academic records;
- Inform families and youth in a language they can understand or in an accessible format, as appropriate, of their right to attend either their school of origin or local school;
- Inform families and youth in a language they can understand or in an accessible format, as appropriate, of their right to transportation and immediate enrollment;
- Develop clear, understandable, and accessible forms for written explanations of decisions and the right to appeal; and
- Expediently follow up on any special education and language assistance referrals or services.

Are children who are awaiting foster care placement eligible for services under the McKinney-Vento Act?

Yes, children who are awaiting foster care placement are considered homeless and eligible for McKinney-Vento services.

Children who are already in foster care, on the other hand, are not considered homeless. LEA liaisons should confer and coordinate with local public social service agency providers in determining how best to assist homeless children and youth who are awaiting foster care placement.

Are children displaced from their housing by naturally occurring disasters eligible for services under the McKinney-Vento Act?

When children and their families are displaced from their housing as a result of a natural disaster, there is often a period of instability in which various private organizations and local, State, and Federal agencies provide assistance. SEAs and LEAs should determine such children's eligibility for McKinney-Vento services on a case-by-case basis. In making this determination, they should take into consideration the services that are available through these other sources.

Following a disaster, one of the LEA's first priorities is to re-open impacted schools as soon as possible and take steps to normalize school routines. LEAs should then proceed to examine whether children who have been displaced by the natural disaster are eligible for McKinney-Vento services on a case-by-case basis. In such circumstances, the Department would provide technical assistance and other assistance, as available, to help the LEA.

What responsibilities do SEAs and LEAs have regarding providing transportation services to homeless children and youth?

SEAs and LEAs are responsible for reviewing and revising policies, including transportation policies that may act as barriers to the enrollment and retention of homeless children and youth in schools in the State. Under the McKinney-Vento Act, homeless children and youth are entitled to receive the transportation and other services that are available to non-homeless students.

SEAs and LEAs must adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or, in the case of an unaccompanied youth, the liaison), to or from the "school of origin" (*see* definition in Appendix A) in accordance with the following requirements:

- If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange for the child's or youth's transportation to or from the school of origin.
- If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally.

How can LEAs ensure that the education of homeless students is not disrupted during inter-district transfers?

LEAs should have in place inter-district (and inter-State, where appropriate) agreements that address potential transportation issues that may arise as homeless students transfer from one district to another.

Is an LEA required to transport homeless students to and from their school of origin, if needed, while enrollment disputes are being resolved?

Yes. The McKinney-Vento Act's transportation requirements apply while disputes are being resolved. Therefore, at the request of the parent or guardian (or in the case of an unaccompanied youth, the

liaison), the LEA must provide or arrange for transportation to and from the school of origin. Inter-district transportation disputes should be resolved at the SEA level.

If an LEA does not provide transportation to non-homeless students, is it required to transport homeless students?

Yes. As discussed above, the statute not only requires an LEA to provide comparable services, including transportation services, to homeless students, it also requires an LEA, at the request of a parent or guardian, to provide or arrange for transportation to and from the school of origin.

Do LEA transportation responsibilities apply to all LEAs in the State or only to those LEAs that receive a McKinney-Vento subgrant?

This requirement applies to all LEAs in the State.

Does McKinney-Vento require an LEA to provide transportation services to homeless children attending preschool?

To the extent an LEA offers a public preschool education, McKinney-Vento requires that homeless children have equal access to that preschool education as provided to non-homeless children. Furthermore, the statute requires that the services provided to homeless children be comparable to those provided to non-homeless children. Thus, if an LEA provides transportation for non-homeless preschool children, it must also provide comparable transportation services for homeless preschool children.

The above information was taken from:

Education for Homeless Children and Youth Program Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended By The No Child Left Behind Act of 2001 Non-Regulatory Guidance

COMPLAINT AND DISPUTE OVERVIEWS

Local Intervention

Parents concerned about their child's education are encouraged to contact the child's teacher, school principal, or LEA special education administrator to discuss their concerns. Informal conversation often resolves the problem and helps maintain open and positive communication. The SELPA Program Specialists are also available to assist in developing solutions to difficult issues.

When disputes develop between the LEA and the parent regarding a student's educational program that cannot be resolved at the local level, it is sometimes necessary to utilize more formal procedures to resolve those disputes. There are three types of dispute resolution proceedings. Each proceeding is designed to address a different kind of dispute.

Due Process

When the parents of a student with disabilities and the educational agency disagree about the child's identification, assessment, educational placement, or provision of FAPE, either side can request a due process proceeding.

There are three levels to the hearing process.

1. Resolution Session

When a parent files a due process hearing request, the district is required to schedule a resolution meeting within 15 days of receipt of the complaint with the parents and the relevant members of the IEP team. The purpose of the meeting is to attempt to reach resolution at an early stage.

2. Mediation Conference

If resolution is not reached or is waived by either party, a mediation conference that is an informal meeting between the district, parent, and an administrative law judge is conducted. The mediation conference must be scheduled by the state within 15 days of receiving the request for due process hearing.

3. Formal Administrative Fair Hearing

If the mediation conference is not successful or is waived by either party, an administrative fair hearing is scheduled. This is a formal hearing conducted by an administrative judge from the Office of Administrative Hearings. At the hearing, both sides present evidence through submitting documents and by calling witnesses. The administrative law judge evaluates the evidence, determines the prevailing party, and

directs corrective action, if any. This step must be held and a decision made within 45 days of the State's receipt of the request for a hearing.

Either party may request to have only a mediation conference instead of requesting a formal administrative fair hearing. If the issue is not resolved through mediation, a formal hearing can then be requested.

(E.C. §§ 56501-56507)

Mediation and hearing requests must be made in writing and sent to:

Office of Administrative Hearings
Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
Phone: (916) 263-0880
Fax: (916) 263-0890

Compliance Complaint

When it is believed that the LEA may have violated any part of special education law, a parent, individual, public agency, or organization can file a complaint with the California Department of Education (CDE). The party filing the complaint must forward a copy of the complaint to the other party at the same time it is filed with the CDE. Within 5 days of receiving the complaint, the CDE must review it to decide if it is a matter for state or local investigation.

For complaints involving issues **not** covered by federal or state special education laws or regulations, the district's uniform complaint procedures are followed.

If it is determined to be an appropriate complaint for state investigation, an investigator interviews both sides, reviews documentation, and then decides whether the complaint is justified and what corrective action (if any) must be taken. A report of that investigation must be made within 60 days. (34 C.F.R. § 300.153)

Complaint forms are available online at <http://cde.ca.gov/sp/se/qu/documents/cmplntinvsrqst.doc> and may be filed with the superintendent of the local agency or sent directly to:

California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814

Phone: 1-800-926-0648
Fax: (916) 327-3704
Email: speceducation@cde.ga.gov

Legal Basis for State Compliance Complaints

- The California Department of Education shall directly intervene without waiting for local educational agency investigation in certain situations. For complaints relating to special education, any one of the following shall be a condition for direct state intervention: The complainant alleges that a public agency, other than a local educational agency fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities;
- The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;
- The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.
- The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).
- The complaint involves a violation of federal law governing special education or its implementing regulations.

The complaint shall identify the basis for filing the complaint directly to the Department. The Complainant must present the Department with clear and verifiable evidence that supports for the direct filing.

Civil Rights Issues

It is the responsibility of the Office of Civil Rights (OCR) in the Department of Education and the Office of Civil Rights in the Department of Health and Human Services to enforce federal laws prohibiting discrimination against persons on the basis of race, color, national origin, sex, age or mental and physical handicaps and to investigate discrimination complaints.

(Title VI, Civil Rights Act of 1964; Title IX, Civil Rights Act of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990)

If a parent or other individual believes that his or her rights have been violated because of his or her disability, or his or her child's disability, by an educational institution receiving federal assistance, a complaint can be submitted to:

Regional Director, Office of Civil Rights, Region IX
50 Beale Street, Suite 7200
San Francisco, CA 94105
Phone: (415) 486-5555 or TDD (877) 521-2172

Email: ocr.sanfrancisco@ed.gov
Fax: (415) 486-5570

FORMAL DUE PROCESS RESOLUTION

PROCESS AND RECOMMENDED GUIDELINES

TABLE OF CONTENTS

Introduction and OAH Contact Information.....	22
OAH Contact Information.....	22
Due Process Timelines.....	23
<i>Resolution Period (30 Days).....</i>	<i>23</i>
<i>Due Process Period (45 Days).....</i>	<i>23</i>
Resolution Session Description.....	24
Recommended Process for Resolution Session.....	25
<i>Purpose of Resolution Session.....</i>	<i>25</i>
<i>Recommended Agenda for Resolution.....</i>	<i>25</i>
<i>Resolution Session Chart.....</i>	<i>27</i>
Writing Agreements.....	28
Sample Letter to Propose Resolution Session.....	29
Intent Regarding Resolution Session.....	30
Sample Interim Settlement Agreement.....	31
Sample Settlement & Release Agreement.....	34

Introduction

Under federal law a Resolution Session is required when a parent files for due process. The intent of the Resolution Session is to clarify and resolve issues in order to reach an agreement. This meeting is required unless both parties agree in writing not to hold a meeting.

Contact Information

All hearing requests will go to the:

Office of Administrative Hearings
Special Education Client
1102 Q Street 4th Floor
Sacramento, CA 95814

Phone: (916)323-6876
FAX: (916)322-8014
Web Page: www.oah.dgs.ca.gov

The following forms are available on the OAH Website:

Request for Mediation and Due Process Hearing Form

Brief Summary of Reason for Request

Proposed Resolution of the Problem State Above

Due Process Timelines

Resolution Period (30 Days)

- Parent submits due process complaint to the LEA and OAH
- The LEA provides a written response to the parent within 10 days (Prior Written Notice Form) which includes:
 - An explanation of why the agency proposed or refused to take the action raised in the complaint.
 - A description of other options that the IEP Team considered and the reasons why those options were rejected.
 - A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action.
 - A description of the factors that is relevant to the agency's proposal or refusal.
- If the due process complaint does not give the LEA sufficient notice of the nature of the problem(s) at issue and the proposed resolution(s), within 15 days of receiving the complaint, the LEA may file a Notice of Insufficiency (NOI) with OAH in an attempt to clarify the issues
- OAH notifies parent within 5 days of sufficiency of description of issues after receiving the NOI from the LEA
- The LEA will hold a Resolution Session within 15 days of receiving notice of the parents' due process complaint prior to the initiation of the due process hearing unless both parties agree otherwise in writing or agree to use the mediation process.
- Within 30 days: Issues must be resolved or Due Process Hearing will resume or state will offer state level mediation

Due Process Period (45 Days)

- State Level Action
 - OAH will conduct a hearing or
- Written Order
 - A written order will be published unless the parties reach a written settlement agreement prior to publication, and
 - The Administrative Law Judge (ALJ) concurs that all issues have been addressed to satisfy the requirements of law

Resolution Session

Pursuant to Regulations for IDEA 2004

Within 15 days of receiving notice of parents' due process complaint, and prior to initiation of a due process hearing, the LEA must convene a Resolution Session with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint. The LEA may not include an attorney of the LEA unless the parent is accompanied by an attorney.

The purpose of the meeting is for the parents of the child to discuss their due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the complaint.

The Resolution Meeting need not be held if the parents and the LEA agree in writing to waive the meeting, or the parents and the LEA agree to use the State mediation process.

If a resolution to the dispute is reached in the Resolution Meeting, the parties execute a legally binding agreement that is signed by both parties and a representative of the LEA that has authority to bind the LEA. This agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

There is an agreement review period of 3 business days. Either party may void the agreement within 3 business days of the agreement's execution.

Recommended Process for Resolution Sessions

The Resolution Session should be a structured meeting controlled by a designated facilitator with the primary goal of clarifying issue(s), determining if solution(s) can be achieved, and designating the issue(s) for hearing if no agreement to solution(s) can be achieved.

It is recommended that LEAs use a neutral facilitator to lead the resolution session. This could be an administrator or program specialist from another LEA. The facilitator should be specifically trained in conducting this type of meeting and should not have prior involvement in the case. The neutral facilitator need not see or review information about the case except to review the Parent letter requesting a hearing or complaint process and the district's written response. Specific timelines are noted in the law and require prompt response. See the following section on timelines.

Every effort should be made by the facilitator to support the parties in improving their relationship and identifying better ways to communicate and resolve issues that may arise in the future. However, where parties are clearly committed to specific positions, the responsibility for resolution is with the due process complaint process.

The LEA is responsible for the implementation of any agreement and/or hearing/complaint activity.

Purpose of Resolution Session

- Articulate and Clarify Issues
- Explore the LEA response
- Identify Options for Resolution
- Where agreement is reached, write a settlement agreement
- Develop an Action Plan and assign responsibility
- Communicate the outcome to Office of Administrative Hearings (OAH)

Recommended Agenda for Resolution Sessions

- I. Introductions
- II. Opening Comments
- III. Description of Process
- IV. Ground Rules
- V. Resolution Process
 - A. Nature of the Problem - Ask: What is the issue?
 - Address FAPE issues first
 - B. Proposed Resolution - Explore specific concerns, examples, and expectations for resolution
 - C. Response - Ask: What is the LEA's response?

- D. Agreement - Seek opportunity to resolve issue
- E. Repeat sequence for each issue

VI. Closure

- a. Written Agreements
- b. Written notice to CDE or OAH
- c. Follow Up with Action Plan to assign staff to complete agreement(Action Plan Form)

RESOLUTION SESSION CHART

Nature of the Problem	Proposed Resolution	Response	Agreements

Writing Agreements

A written settlement agreement signed by both parties becomes a binding contract. After the three (3) business day review period for either party to rescind the agreement, it becomes binding on both parties.

The agreement belongs to the parties and should reflect wording that the parties clearly understand and represent their interests in accepting the agreement. If a facilitator is used during this session, the facilitator should support the writing of the agreement to ensure that both parties understand the components of the agreement. It is important that the parties review both the substantive components of the agreement those that are technically required, and agree to the language.

Districts are encouraged to use the *Settlement and Release Agreement Template*. Use only the sections that apply to the issues that are in dispute. For example, language addressing “Assessment” should be deleted if assessment is not at issue during the complaint or resolution process.

SAMPLE

LETTER TO PROPOSE RESOLUTION SESSION

Dear_____:

On **[insert]** the **[insert]** School District received a copy of your complaint requesting a due process hearing regarding **student name**.

When a parent initiates a complaint for a due process hearing, a district must schedule a preliminary resolution meeting within 15 days of receipt of the complaint, per 20 U.S.C. 1415. The purpose of the meeting is to give a parent an opportunity to discuss the due process complaint and the facts on which the complaint is based with the district; and to give the district an opportunity to resolve issues early in the process.

At the resolution conference, a district must have a representative present with authority to resolve the complaint. Further, at this meeting, the district cannot have legal counsel present, unless the parent decides to bring legal counsel. If an agreement is reached at the resolution conference, the parent and/or the district will have 3 business days to void the agreement. If an agreement is not reached within 30 days, the due process hearing may proceed and the applicable timelines will begin. A district and a parent may also agree to waive this conference. This meeting is NOT an IEP meeting.

We have scheduled a resolution conference for **[insert]** at the District Special Education Office. Please confirm your attendance or your intention to waive this meeting by completing the information below and returning it to me in the enclosed stamped, self-addressed envelope, or by faxing it to (951) 826-6943. Please also indicate whether or not you will attend this meeting with legal counsel so that the District can make appropriate plans.

I look forward to meeting and discussing your complaint on **[insert]**.

Sincerely,

Enclosure: Prior Written Notice

INTENT REGARDING RESOLUTION CONFERENCE
SCHEDULED BY [insert] SCHOOL DISTRICT
[Date & time]
District Special Education

I, _____ parent/guardian of _____

_____ will attend the resolution conference

_____ waive the requirement of a resolution conference

If you are attending the resolution conference scheduled for _____ District Special Education Office, please indicate whether you plan on attending the scheduled resolution conference accompanied by legal counsel.

I, _____ parent/guardian of _____

_____ will not bring an attorney to the resolution conference scheduled for _____, at _____ am/pm, District Special Education Office

_____ will bring an attorney to the resolution conference scheduled for _____, at _____ am/pm District Special Education Office

Signature

Date

Interim Settlement and Release Agreement

This Settlement and Release Agreement ("Agreement") is between _____, parents of _____, a minor who has received services through the _____ Unified School District collectively referred to as "Parties". Parents and the District, in consideration of the promises made herein, agree as follows:

1. Nature and Status of Dispute

- a. Parents and the District disagreed about student's special education FAPE related services. As a result, on date, Parents filed a due process compliant with the California Office of Administrative Hearings ("OAH") regarding several issues related to student's educational program for the 200_/0_ school year. The case was assigned a file number of #N_____.
- b. On _____, the Parties met for a resolution session to discuss Parents complaint, the facts that formed the basis of the complaint, and to provide the District with an opportunity to resolve the complaint.
- c. The purpose of this Agreement is to resolve any disputes caused by this action and claims between Parents and the District/Service Providers related to student's education, including special education and related services, through the date of this interim agreement on issues before and within the jurisdiction of the Office of Administrative Hearings.

2. Actions To Resolve Dispute

- a. [List the first issue of the parent per the OAH filing.]
[State what the parent is requesting for remedy of above issue per OAH filing.]
[State District's response to Parent's proposed resolution:]
- b. [List the second issue of the parent per the OAH filing.]
[State what the parent is requesting for remedy of above issue per OAH filing.]
[State District's response to Parent's proposed resolution:]

The parties, _____ USD and Parents, request Due Process complaint to be dismissed immediately upon receipt of this final agreement. Parents will notify OAH of the agreement to dismiss complaint. Parents and _____ USD representatives would like OAH to know that this issue was resolved at the Resolution Session on _____.

3. Waiver and Release of Claims

Parents and the District hereby fully release and discharge each other from all claims, damages, liabilities, rights and complaints of whatever kind or nature arising from or related to student's educational program, including claims arising under the California Education Code, the individuals with Disabilities Education Act ("IDEA"), 42 U.S.C. section 1983, the Americans with Disabilities Act, the Unruh Act, and Section 504 of the Rehabilitation Act of 1973, whether known or unknown, which either party now has or

holds, or at any time had or held against the other party, through the effective date of this Agreement.

Parents hereby withdraw, waive and relinquish their claim for reimbursement for attorneys' fees and costs incurred in connection with this meeting, mediation and/or due process hearings.

4. **Unknown Claims**

Parents certify that they have read, and hereby waive the application of, the following provision of California Civil Code § 1542 TO ALL CLAIMS:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known to him or her must have materially affected his or her settlement with the debtor."

Acknowledging Civil Code section 1542, Parents agree to waive the protections of section 1542 in order to relinquish all claims described herein. Specifically, Parents understand and acknowledge the significance and consequence of this waiver of section 1542, as follows: (1) they may have additional causes of action, rights, or claims and attorneys' fees or costs arising or occurring up to the effective date of the Agreement, or which they are not aware; (2) they may not make a further demand for any such claims, fees, or costs upon each other or their predecessors, successors, board, employees, or agents.

5. **Technical Provisions**

- a. **Conditions of Execution.** Each party acknowledges and warrants that the Parties' execution of this Agreement is free and voluntary.
- b. **Execution of Other Documents.** The Parties agree to cooperate fully in the execution of other documents and the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Interim Agreement.
- c. **Non-admission.** This Interim Agreement is not, and shall not be construed as, an admission by the District that it failed to provide or offer student a free appropriate public education.
- d. **Entire Agreement.** This agreement contains the entire agreement between the parties.
- e. **Effective Date.** This Interim Agreement is effective three (3) days following the date of signature by the Parties, if not rescinded by either party.
- f. **Governing Law.** This Interim Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California and the United States.
- g. **Severability.** If any portion of this Interim Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that determination shall not invalidate or render unenforceable any other provision of this Interim Agreement.
- h. **Confidentiality.** The Parties agree to keep the terms of this Interim Agreement confidential. However, for purposes of implementation and enforcement of this

Interim Agreement, the Parties mutually consent to the disclosure and admissibility of this Interim Agreement.

- i. Execution by Facsimile or in Counterparts. This Interim Agreement may be signed in counterparts such that the signatures appear on separate signature pages. A copy, facsimile transmission or original of this document with all signature pages appended together shall be deemed a fully executed Interim Agreement.

Parent Signature

_____ Date: ____/____/____

Parent Signature

_____ Date: ____/____/____

District Signature(s)

_____ Date: ____/____/____

District Representative Signature(s)

_____ Date: ____/____/____

Facilitator Signature

_____ Date: ____/____/____

SAMPLE

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is between [PARENTS] ("Parents"), parents of [STUDENT], a minor, and the [INSERT] School district ("District") (collectively referred to as "Parties"). Parents and the District, in consideration of the promises made herein, agree as follows:

1. NATURE AND STATUS OF DISPUTE

- A. Parents and the District disagreed about [STUDENT]'s special education program. As a result, on [INSERT DATE], Parents filed a due process complaint with the California Office of Administrative Hearings ("OAH") regarding several issues related to [STUDENT'S] educational program for the [INSERT] school years, including the extended school year. The case was assigned a file number of #_____.
- B. Parents and the District disagreed about [STUDENT]'s special education program. As a result, on [INSERT DATE], Parents filed a complaint with the California Department of Education (CDE) regarding several issues related to [STUDENT'S] education program for the [INSERT] school years, including the extended school year. The case was assigned a file number of [INSERT FILE NUMBER].
- C. On [INSERT DATE], the Parties met for a resolution session to discuss Parents' complaint, the facts that formed the basis of the complaint, and to provide the District with an opportunity to resolve the complaint.
- D. The purpose of this Agreement is to resolve any and all disputes, causes of action and claims between Parents and the District related to [STUDENT]'s education, including special education and related services, through the date of this agreement.

2. ACTIONS TO RESOLVE DISPUTE

[INSERT ANY OF THE FOLLOWING TERM(S), IF RELEVANT TO THE DISPUTE AND SETTLEMENT PROCESS]

A. Assessment

Parents agree to sign an Assessment Plan, to allow the District to conduct assessment(s) in the area(s) of [INSERT]. Parents will sign an Assessment Plan no later than [INSERT DATE] or a copy of the Assessment Plan, signed and consented to by Parents, is attached to this Agreement.

The Parties agree to fund an independent education evaluation in the area(s) of [INSERT]. This evaluation will be provided at no cost to Parents. The assessor will be chosen by the District from the District's list of approved independent assessors.

- B. The Parties agree to the education goals drafted on [INSERT DATE].

C. Placement and Services

The child will be placed in [INSERT] class at [INSERT] school.

Extended school year ("ESY") will be provided for [INSERT] days, excluding holidays, from [INSERT DATE] to [INSERT DATE].

The District will provide the following related services during school days and including the extended school year:

[LIST ALL RELATED SERVICES (e.g. 1;1 AIDE, SPEECH THERAPY, TRANSPORTATION, etc.), INCLUDING FREQUENCY AND DURATION.]

The Parties agree to continue the educational goals drafted on [INSERT DATE].

The above placement and services are outlined on the IEP face sheet attached to this Agreement as Addendum 1. The Parties agree that the services outlined on the IEP face sheet attached to this Agreement as Addendum 1 constitute FAPE for [STUDENT] through [INSERT TERM OF AGREEMENT]. Unless mutually agreed to in writing by the Parties, there shall be no further modification of [STUDENT]'s placement or services during this period.

D. Reimbursement and Compensatory Education

The District agrees to provide the following compensatory services:

[LIST ALL COMPENSATORY SERVICES, INCLUDING THE PROVIDER, FREQUENCY AND DURATION.]

The District agrees to reimburse Parents in the amount of \${INSERT} for [INSERT SERVICE] within 60 days of the District's receipt of proof of costs incurred.

Appropriate documentation of costs incurred includes copies of cancelled checks, credit card receipts, paid invoices, etc.

The District agrees to reimburse Parents in the amount of \${INSERT} to settle all claims related to [STUDENT]'s educational program through the date of this Agreement. A check in this amount shall be issued to "[INSERT NAME]" within 45 days of execution of this Agreement.

E. [INSERT] – [INSERT] School Year

The District will convene an IEP meeting by [INSERT DATE] to review [STUDENT]'s IEP and recommend a program and placement for the [INSERT] – [INSERT] school year.

[ALWAYS INCLUDE THE FOLLOWING PROVISIONS]

F. Stay Put

If disagreements arise regarding [STUDENT]'s current educational program, the Parties agree that placement and services outlined on the IEP face sheet, attached to this Agreement as Addendum 1, constitute [STUDENT]'s "stay put" placement during the pendency of any of any proceedings related to the dispute.

G. Relocation

Parents agree that if Parents/[STUDENT] no longer reside within the District, Parents will immediately inform the District. Parents further agree that if Parents/[STUDENT] no longer reside within the attendance boundaries of the District, the District's obligation to provide funding, programming or services under this Agreement terminate as of the date of relocation.

H. Dismissal of Due Process Complaint

Within 5 days of execution of this Agreement, Parents will notify OAH [CDE] of this Agreement and dismiss with prejudice their pending due process complaint.

3. WAIVER AND RELEASE OF CLAIMS

Parents and the District hereby fully release and discharge each other from all claims, damages, liabilities, rights and complaints of whatever kind or nature arising from or related to [STUDENT]'s educational program, including claims arising under the California Education Code, the Individuals with Disabilities Education Act ("IDEA"), 42 U.S.C. section 1983, the Americans with Disabilities Act, the Unruh Act, and Section 504 of the Rehabilitation Act of 1973, whether known or unknown, which either party now has or holds, or at any time had or held against the other party, through the effective date of this Agreement.

Parents hereby withdraw, waive and relinquish their claim for reimbursement for attorneys' fees and costs incurred in connection with this meeting, mediation and/or due process hearings.

Parents' initials

4. UNKNOWN CLAIMS

Parents certify that they have read, and hereby waive the application of, the following provision of California Civil Code § 1542 TO ALL CLAIMS:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known to him or her must have materially affected his or her settlement with the debtor.”

Acknowledging Civil Code section 1542, Parents agree to waive the protections of section 1542 in order to relinquish all claims described herein. Specifically, Parents understand and acknowledge the significance and consequence of this waiver of section 1542, as follows: (1) they may have additional causes of action, rights, or claims and attorneys’ fees or costs arising or occurring up to the effective date of the Agreement, or which they are not aware; (2) they may not make a further demand for any such claims, fees, or costs upon each other or their predecessors, successors, board, employees, or agents.

Parent’s initials

5. TECHNICAL PROVISIONS

- A. *Conditions of Execution.* Each part acknowledges and warrants that the Parties’ execution of this Agreement is free and voluntary.
- B. *Execution of Other Documents.* The Parties agree to cooperate fully in the execution of other documents and the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.
- C. *Non-admission.* This Agreement is not, and shall not be construed as, an admission by the District that it failed to provide or offer [STUDENT] a free appropriate public education.
- D. *Entire Agreement.* This Agreement contains the entire agreement between the parties.
- E. *Effective Date.* This Agreement is effective three (3) days following the date of signature by the Parties, if not rescinded by either party.
- F. *Governing Law.* This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California and the United States.
- G. *Severability.* If any portion of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that determination shall not invalidate or render unenforceable any other provisions of this Agreement.
- H. *Confidentiality.* The Parties agree to keep the terms of this Agreement confidential. However, for purposes of implementation and enforcement of this Agreement, the Parties mutually consent to the disclosure and admissibility of this Agreement.
- I. *Execution by Facsimile or in Counterparts.* This Agreement may be signed in counterparts such that the signatures appear on separate signature pages. A copy, facsimile transmission or original of this document with all signature pages appended together shall be deemed a fully executed Agreement.

PARENT(S) SIGNATURE

Dated: ____/____/____

[PARENT], Parent

Dated: ____/____/____

[PARENT], Parent

DISTRICT SIGNATURE

Dated: ____/____/____

[AUTHORIZED LEA REP], [TITLE]

GRADES, REPORT CARDS, AND TRANSCRIPTS FOR STUDENTS WITH DISABILITIES

(Taken from CDE Website)

1. Should a student's grade reflect that accommodations have been made for that student to access the general education curriculum?

No. A student's grade should not reflect that accommodations have been made. Accommodations provide students with disabilities an equal opportunity to participate in the general education curriculum.

An accommodation is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attributes that provides access for a student with a disability to participate in a course, standard or test, and it does not fundamentally alter or lower the standard or expectation of the course, standard or test.

The CDE [Standardized Testing and Reporting \(STAR\) Web page](#) provides information and examples of accommodations and modifications for administration of California Statewide Assessments.

2. May a student's grade reflect that modifications have been made for that student to access the general education curriculum?

Yes. If modifications have been made to the curriculum of any course, it is important that the student's grade reflect the student's achievement in the modified curriculum, as long as modified grades are available to all students. However, any modifications to programming, instruction, and grading must be documented in the student's IEP and be directly related to the student's disability. To automatically give modified grades to all special education students would be discriminatory and potentially violate Section 504 of the Rehabilitation Act of 1973.

A modification is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attribute that provides access for a student with a disability to participate in a course, standard or test, and it does fundamentally alter or lower the standard or expectation of the course, standard or test.

The CDE [Standardized Testing and Reporting \(STAR\) Web page](#) provides information and examples of accommodations and modifications for administration of California Statewide Assessments.

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 can not indicate that the student has a disability or that the student is in special education. Information regarding a disability may be indicated on the transcript if the student or the parent of the student gives written consent for the information to be released to a postsecondary institution or employer.

PROMOTION AND RETENTION OF STUDENTS WITH DISABILITIES

Reference: FAQs — Pupil Promotion & Retention, California Department of Education

Frequently asked questions from the field regarding the promotion, retention, and grading of students with disabilities.

1. May students with disabilities be retained?

Yes, students with disabilities can be retained; however, careful consideration in the development and implementation of the student's individualized education program (IEP) should prevent student failure in most cases.

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. May students with disabilities have individualized promotion standards?

If, even with accommodations or curricular modifications, the student will be unable to meet the board-adopted promotion standards due to the nature or severity of the disability, the IEP team should document individualized promotion standards for the student that are within the context of district standards. The documentation of an individualized promotion standard should be completed before the first day of the school year, if possible. The student, parents, and general and special education teachers should be informed of potential consequences of individualized promotion standards (i.e. will the individualized promotion standard satisfy district requirements for graduation with a diploma or entrance requirements of a postsecondary institution?).

4. 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.

5. 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:

- a. Is the current IEP for the student's academic, linguistic, social, emotional, and behavioral needs appropriate?
- b. Is the manner of assessment appropriate, including accommodations and modifications identified in the IEP?
- c. Were all the services required by the student to make progress in the general education curriculum appropriately identified in the student's IEP?
- d. Were the linguistic needs of English Learners appropriately identified?
- e. Did the student receive all the services identified in the IEP?
- f. Was the assessment conducted consistent with the IEP?
- g. Was the student's promotion standard appropriate and clarified in the IEP?

6. 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, then the student may not be promoted to the next grade level. An IEP meeting should be held to develop an appropriate plan for helping the student advance.

If the questions in item #5 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.

7. 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.

8. Where can more detailed information on pupil promotion and retention and related supplemental instruction be found?

Detailed information on pupil promotion and retention and related supplemental instruction can be found on the CDE [Pupil Promotion & Retention Web page](#).

Special Education Algebra Waiver Documentation Information for Preparing an Algebra Waiver

All students are required to complete a course in Algebra I (or its equivalent) prior to receiving a diploma of graduation from high school per *Education Code (EC)* Section 51224.5. Pursuant to *EC* Section 56101, school districts must request a waiver of the requirement for the successful completion of Algebra I (or its equivalent) for students with disabilities with an individualized education program (IEP). The following is information to assist districts in preparing waiver requests.

All students may be included on the same waiver request when requesting a waiver of multiple students. List students to be included on the waiver without overtly identifying them (use an identifying number instead), and for each student, provide all of the information below:

- For each student included in the waiver request, attach a valid, current IEP for each student. Highlight the areas of mathematics deficiencies and how the student's needs in mathematics were addressed.
- Highlight information from IEPs for all high school years to prove that the student was on the diploma track consistently and evidence that the IEP was written to support the student's participation in diploma track math courses, particularly algebra.
- Highlight the specific assistance the district provided to the student, such as supplementary aids, services, accommodations, modifications, and supports, to attain this diploma track goal specifically for the algebra requirement in those years.
- Copy of the transcript for each student.
- Highlight all current and previous attempts at algebra and pre-algebra classes on transcript.
- Highlight which assessment the district has used at the high school level for the student: Standardized Testing and Reporting Program (STAR)).

Blank out any names on all documents for confidentiality and use the same identifier on all documents for the same student so they can be reviewed together.

To prepare a waiver request of this type, use this form:

[Specific Waiver Form Waiver of Algebra I Graduation Requirement](#)

(UPDATED 5-Nov-2009; DOC; 46KB; 1p.)

**CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST**

AIGR-1 (Rev. 10-2-2009) <http://www.cde.ca.gov/re/lr/wr/>

Send Original to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

**Waiver of Algebra I Graduation
Requirements for Pupils with Disabilities**

Send electronic copy in **Word** and
back-up material to: waiver@cde.ca.gov

CDS CODE

Local educational agency:		Contact name and recipient of approval/denial notice:		Contact person's e-mail address:	
Address: (City) (State) (ZIP)		Phone (and extension, if necessary):		Fax number:	
Period of request: (month/day/year) From: To:		Local board approval date or SELPA signature date (required)			

LEGAL CRITERIA

1. Authority for the waiver: X Specific code section: **EC 56101**

56101(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under...(IDEA)... or to the compliance of a district, special education local plan area, or county office with...(IDEA)...and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

Education Code or California Code of Regulations section to be waived.

51224.5 (a) The adopted course of study for grades 7 to 12, inclusive, shall include algebra as part of the mathematics area of study pursuant to subdivision (f) of Section 51220.

(b) Commencing with the 2003-04 school year and each year thereafter, at least one course, or a combination of the two courses, in mathematics required to be completed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 51225.3 by pupils while in grades 9 to 12, inclusive, prior to receiving a diploma of graduation from high school, shall meet or exceed the rigor of the content standards for Algebra I, as adopted by the State Board of Education pursuant to Section 60605.

Desired outcome/rationale.

Request a waiver of the (above) Algebra I graduation requirement for _____ pupils with disabilities, who are seniors, and are otherwise eligible to graduate in the _____ school year under current statute.

District/County/SELPA Certification – I hereby certify that the information provided on this application is correct & complete.

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (type or print):	Staff Signature:	Date:
Unit Manager (type or print):	Unit Manager Signature:	Date:
Division Director (type or print):	Division Director Signature:	Date:
Deputy (type or print):	Deputy Signature:	Date:

California Longitudinal Pupil Achievement Data System (CALPADS)

CALPADS is a longitudinal data system used to maintain individual-level data including student demographics, course data, discipline, assessments, staff assignments, and other data for state and federal reporting.

CALPADS serves many purposes at the Local, State and Federal levels.

- Allows California to monitor special education programs continuously to identify unusual phenomena.
- Answers program questions by analyzing student level data (policy-making, planning and administration).
- Identifies and makes it possible to research program issues (i.e. the increase of autism at the local, state and federal levels).
- Allows comparisons of special education data/outcomes to general education outcomes.
- Allows for the evaluation of individual student progress, movement through LRE, transition and post-secondary data
- Federal law requires statutory and programmatic data for federal funds.
- Projects future needs of special education population.
- Collects a common set of core data in special education to address issues of statewide and local interest (research capabilities)

In addition, with the reauthorization of IDEA in 2004, came the requirement for States to submit State Performance Plans (SPP) to the Federal Government annually through submission of the Annual Performance Report (APR). Twenty indicators are reported, many of which are gathered through local CALPADS reporting i.e., graduation rates, drop-out rates, Suspension/Expulsion rates, LRE, preschool assessment, disproportionality representations (ethnicity and disability comparisons), Part C to Part B transition, secondary transition at 16 and post-school indicators.

The federal Office of Special Education Programs (OSEP) evaluates State performance through data analysis and the State of California evaluates individual SELPAs in a similar manner. The California Department of Education (CDE) evaluates school districts, COEs and SELPAs for compliance with federal and state laws and regulations. The purpose of this overall evaluation is ultimately to verify that students with disabilities receive programs and services they need, positive results are achieved and procedural safeguards are provided. Ultimately all purposes are aimed at ensuring students with disabilities receive a free appropriate public education (FAPE).

Districts are required to do data compliance reviews. Individual districts are chosen by CDE for verification reviews periodically, and sanctions and technical assistance are penalties and supports utilized to ensure compliance and FAPE provision across California and the United States.

With the data being collected in multiple ways, for multiple purposes, it is important for teachers, administrators and service providers to understand when the data is reported, the purpose of the various reports and what is expected of personnel within North Santa Cruz County to ensure the reports are completed in an accurate and timely manner.

Beginning September 10, 2019, CALPADS began accepting data related to Students with Disabilities (SWD) that were previously submitted to the CDE through the California Special Education Management Information System (CASEMIS). CASEMIS was retired, and all data for SWD submitted by LEAs now flows directly from the Special Education Data System (SEDS) through an Application Programming Interface (API) to CALPADS. All special education data must be submitted through the API.

The demographic data for all students that are submitted to CALPADS through the SENR and SINF files are considered the authoritative source of data and will be reflected in all CALPADS special education reports. LEAs do submit students' race/ethnicity in the SPED file; however, these data are not used in the CALPADS reports. CALPADS will provide LEAs with a discrepancy extract that displays the race/ethnicity for SWDs that are reported to CALPADS through the SEDS and SIS. If the data are discrepant, the LEA should update their local system(s) appropriately.

The special education data will be uploaded through the following two files which are posted on the CDE CALPADS System Documentation web page:

- Student Special Education Program (SPED) File
- Student Services (SSRV) File

The SPED file primarily contains data that enables the CDE to meet federal reporting requirements and monitor whether LEAs are meeting federal IDEA requirements related to identifying, evaluating, and referring students to services within specified time frames, reviewing education and service plans annually and triennially, and ensuring students are receiving a Free and Appropriate Education (FAPE) in the Least Restrictive Environment (LRE).

The SSRV file primarily contains information on a student's IFSP/IEP/ISP including the type of service the student is to receive, the provider and location of the service, and the frequency and duration of the service.

LEAs will also submit special education related data in the following files:

- Student Test Settings (STSE) File
- Postsecondary Status (PSTS) File
- Student Incident (SINC) File*
- Student Incident Result (SIRS) File*
- Student Offense (SOFF) File*

Special education data will be part of the Fall 1, EOY 3, and EOY 4 submissions. SELPAs are required by law to review and approve SWD data for LEAs within the SELPA. The CALPADS certification process incorporates SELPA review and approval of the special education certification reports. For the Fall 1, EOY 3, and EOY 4 submissions, an LEA's submission is certified once the LEA has approved all reports, and the SELPA has approved all special education reports for the submission. If the SELPA approves the special education reports, then the submission is certified.

Following the certification deadline, the Amendment Window opens, during which time LEAs may further amend their data. However, the LEA must approve all certification reports and the SELPA must approve the special education certification reports by the deadline in order for the submission to be certified.

FALL 1

For Fall 1, LEAs and SELPAs must review and approve the following reports:

- 16.1 – Students with Disabilities – Education Plan by Primary Disability Count
- 16.2 – Students with Disabilities – Count by Federal Setting
- 16.5 – Students with Disabilities – Student Services by Primary Disability

As with all CALPADS aggregate reports, LEAs may also view student-level-detail reports that display the students that make up the aggregate reports.

NOTE: It is critical that charter schools submit their data for SWD and general education students consistently because LEAs and charters with inconsistent submissions will receive fatal errors from the CALPADS system and will be unable to certify their CALPADS Fall 1 and End-of-Year submissions.

Charter School Reporting of Special Education Data

LEA's authorized charter schools must submit data for SWD and general education students in the same way. Previously, some charter schools submitted their CALPADS data directly and data for their SWD through their authorizing LEA or vice versa. Beginning September 10, 2019, the data for both populations must be submitted the same way, either directly to CALPADS or through the authorizing LEA. Charter schools that previously submitted their CALPADS and CASEMIS data differently were informed that they needed to choose one reporting option. It is critical that charter schools submit their data for SWD and general education students consistently because LEAs and charters with inconsistent submissions will receive fatal errors from the CALPADS system and will be unable to certify their CALPADS Fall 1 and End-of-Year submissions. Specifically, LEAs will receive the following errors:

- SPED0002 – Invalid Reporting School – This compares the school of attendance in the file and the reporting LEA. For independently reporting charters, the reporting LEA would be the charter itself.
- SPED0443 – Invalid SELPA for Reporting LEA – This compares the reporting LEA to the SELPA code. For independently reporting charters, the reporting LEA would be the charter itself.

EOY 3

Student Discipline (SDIS) file has been retired and the module has been expanded to collect a broader range of incidents that includes incidents in which students commit statutory offenses, and incidents in which students are restrained or secluded. The module now includes the following three new file types:

SINC	Student Incident
SIRS	Student Incident Result
SOFF	Student Offense

In order for the EOY 3 to be certified, LEAs must approve all EOY 3 aggregate certification reports, and their Special Education Local Plan Area (SELPA) must approve the reports specific for students with disabilities. While SELPAs are not required to certify the reports that include counts of incidents and results that include general education as well as students with disabilities (Report # 7.10, Report # 7.11), LEAs are strongly encouraged to provide SELPAs access to these reports so that they can assist in the identification of potential disproportionality issues. The EOY 3 reports are summarized below:

7.10	Incident - Count
7.11	Incident Results - Count
7.12	Incident Result – Student List
7.13	Student Offense – Count by Offense
7.14	Incident Offense – Student List
7.15	Incident Results - Persistently Dangerous Offense Expulsions
7.16	Incident Restraint, Seclusion, and Removals for Students with Disabilities - Count
7.17	Unilateral Removals for Students with Disabilities - Count
7.18	Incident Removals for Students with Disabilities – Student List

To meet federal reporting requirements, the CDE must collect whether any student who committed a statutory offense, and was *suspended or expelled*, received instructional support. LEAs are not required to provide instructional support to general education students who have been suspended or expelled; however, the CDE is required to report whether instructional

support was provided. LEAs are required to provide instructional support to students with disabilities who are suspended or expelled after a duration of 10 days.

EOY 4

LEAs are required to submit Special Education (SPED), Student Services (SSRV), and Postsecondary Status (PSTS) files, and LEAs and SELPAs must approve all EOY 4 reports for the submission to be certified.

The EOY 4 reports are summarized below:

16.1	Students with Disabilities – Education Plan by Primary Disability Count (EOY4)
16.2	Students with Disabilities – Count by Federal Setting – Count (EOY4)
16.3	Students with Disabilities Profile – List (EOY4)
16.5	Students with Disabilities – Student Services by Primary Disability (EOY4)
16.6	Students with Disabilities – Student Services – Student List (EOY4)
17.3	Postsecondary Survey Outcome for Students with Disabilities – Count
17.4	Postsecondary Survey Outcome for Students with Disabilities – Student List

Special Education Information System (SEIS)

The electronic IEP and Student Records in SEIS are the CALPADS data collection tool for the North Santa Cruz County SELPA. In order to accomplish thorough and accurate data reporting, collaboration occurs through SEIS. The Special Education data is directly validated against the data submitted by SEIS to CALPADS. It is imperative that IEP data is verified before it is affirmed in SEIS.

Fall: Census Date (first Wednesday in October):

- This will include all transactions between 7/1 – Census Date
- Student and Services Files

End of Year (June 30):

- This will include all transactions between 7/1 – 6/30
- Student, Services and Post Secondary files

Personnel participating in IEPs are responsible for accurate data collection at the student level. Special education teachers and all service providers enter data into the Future IEP. CALPADS errors are corrected by the Case manager by running the CALPADS error check through the affirm and attest process. It is imperative that Case Managers affirm IEPs and Amendments as soon as meetings are completed and submit student change requests as soon as Eligibility is determined, or a student is exiting. This is the only way the student data will be reported.

In addition the Special Education Data Coordinator is responsible for:

- Receiving the appropriate CALPADS roles to do required tasks.
- Populating Student with Disabilities data into SEIS and transferring that data to CALPADS via the API.
- Resolving validation errors within SEIS.
- Communicating with the CALPADS Administrator when a student does not have an enrollment in CALPADS.
- Reviewing special education certification reports within CALPADS and communicating to the CALPADS Administrator when reports are ready for approval.
- Reviewing discrepancy reports with CALPADS staff to determine whether student demographic data need to be updated in SEIS or the Student Information System (Illuminate, Powerschool, etc).
- Working with the SEIS vendor.
- Working as an intermediary with the CALPADS Administrator and SELPA Office .

The SELPA Office is responsible for:

- Maintaining a CALPADS account.
 - SPED Edit* (only if SELPA will submit data for all its member LEAs)
 - SPED View*
 - STSE, PSTS for SWD students Edit and View
 - SELPA Approval
 - SELPA Reports
 - SENR, SINF, SPRG, SDIS View
 - Student Search

*The SPED View and Edit roles include viewing and editing data submitted on the SPED and SSRV files.

- Reviewing special education certification reports in CALPADS.
- Working collaboratively with the LEAs' Special Education Data Coordinator and the CALPADS Administrators to create an approval timeline to help ensure the Fall 1 and EOY submissions are approved by the certification deadline.

Certification Process

Special education data will be part of the Fall 1, EOY 3, and EOY 4 submissions. SELPAs are required by law to review and approve SWD data for LEAs within the SELPA. Therefore, the CALPADS certification process has been modified to incorporate SELPA review and approval of the special education certification reports in CALPADS. For the Fall 1, EOY 3, and EOY 4

submissions, an LEA's submission is certified once the LEA has approved all reports, and the SELPA has approved all special education reports for the submission.

Below is information on the data to focus on for each table along with guidance on what compliance or funding processes are affected by the data from the tables.

Report	Data	What to do	How data is used	Compliance/ Funding
16.1	Education Plan Type	Ensure accuracy for students with ISPs	<ul style="list-style-type: none"> Used for private school proportionate share calculations 	<ul style="list-style-type: none"> Proportionate Share
	Primary Disabilities	Review to ensure data looks accurate	<ul style="list-style-type: none"> Data used as part of disproportionality calculations 	<ul style="list-style-type: none"> Disproportionality
	Total Unduplicated	Review numbers for accuracy	<ul style="list-style-type: none"> Funding calculations for numbers of students with severe disabilities and low incidence disabilities 	<ul style="list-style-type: none"> Low Incidence State Funding
16.2	Federal Settings	Review to ensure data looks accurate	<ul style="list-style-type: none"> Used for Indicator 5c – specifically separate school (300) Used for Indicator 6a – specifically regular early childhood (201) Used for Indicator 6b – specifically separate class (203) and separate school (300) 	<ul style="list-style-type: none"> Indicator 5c: Separate Schools Indicator 6a: Preschool LRE Indicator 6b: Separate Class
	General Education Participation	Review to ensure data looks accurate	<ul style="list-style-type: none"> Used for Indicators 5a and 5b – specifically <40% and >80% 	<ul style="list-style-type: none"> Indicator 5a: LRE Rate: In Regular Class more than 80% Indicator 5b: In Regular Class less than 40%
16.3	Grade Level	Ensure students are in correct grade levels	<ul style="list-style-type: none"> Sort for preschool only – used for funding calculations for number of preschool students served by districts in SDCs 	<ul style="list-style-type: none"> Preschool funding
	Disabilities	Ensure students with Low Incidence disabilities are accurately identified in Disability 1 or 2	<ul style="list-style-type: none"> Used for Low Incidence funding from State and for North Santa Cruz County SELPA funding model calculations 	<ul style="list-style-type: none"> Low Incidence Funding from State North Santa Cruz County Funding Model
	LRE Info	Review to ensure	<ul style="list-style-type: none"> Used for Indicators 5a, 5b, 5c, 6a, and 6b – specifically preschool program setting, ten 	<ul style="list-style-type: none"> Indicator 5a:

		accuracy of data	or more hours, and gen ed participation range	<p>LRE Rate: In Regular Class more than 80%</p> <ul style="list-style-type: none"> ● Indicator 5b: In Regular Class less than 40% ● Indicator 5c: Separate Schools ● Indicator 6a: Preschool LRE: Regular Program ● Indicator 6b: Separate Class
	Other Indicators	Review Parent Involvement data	<ul style="list-style-type: none"> ● Used for Indicator 8 to monitor district facilitation of parent involvement in the IEP process 	<ul style="list-style-type: none"> ● Indicator 8: Parent Involvement Rate
	Transition and Post-Secondary	Review to ensure all students who were 16 on census day have the appropriate data	<ul style="list-style-type: none"> ● Used for Indicator 13 – specifically all students who were 16 years of age on census day must have all seven transition questions listed and a response to agency Rep IEP Participation 	<ul style="list-style-type: none"> ● Indicator 13: Rate of Students with Transition Goals/Services
16.5	Expand Service Category and Special Education Service	Review for any oddities	<ul style="list-style-type: none"> ● CDE will require written explanations for any service code 900s 	<ul style="list-style-type: none"> ● CDE Follow Up
	Special Education Service	Review for accuracy	<ul style="list-style-type: none"> ● Used for funding calculations – specifically students with low incidence disabilities receiving Regional Services provided by the SCCOE 	<ul style="list-style-type: none"> ● North Santa Cruz County Funding Model and COE billing
16.6	First six columns	Ensure all data is accurate	<ul style="list-style-type: none"> ● District of Special Education Accountability is used for ensuring student data is assigned to the right district on the CA Dashboard 	<ul style="list-style-type: none"> ● CA Dashboard
	Services	Focus on service provider codes	<ul style="list-style-type: none"> ● Data is used for North Santa Cruz County SELPA funding model – specifically students being provided Regional Services by the SCCOE 	<ul style="list-style-type: none"> ● North Santa Cruz County SELPA funding model and COE billing

2013–14 California Assessment of Student Performance and Progress (CAASPP)

Test	Type	Participants	Grade Level(s)	Content Tested
Smarter Balanced Field Test	CR MC SR PT CBT	All students except those who take the CAPA, or for the English-language Arts test only, English learners who are in their first 12 months of attending a school in the United States.	3–8 9–11 Scientific Sample* Required	English–Language Arts • Mathematics (includes one performance task in English–language Arts or mathematics) Note: No score reports will be provided.
CSTs	SB MC	All students unless their individualized education program indicates assessment with CAPA.	5, 8, and 10 Required	Science
CAPA	SB PA	Students with significant cognitive disabilities who are unable to take the CSTs even with accommodations or modifications and whose individualized education program indicates assessment with CAPA.	2–11 Required	Grades 2–11 English–Language Arts • Mathematics Grades 5, 8, and 10 Science
CMA	SB MC	Students whose individualized education program indicates assessment with CMA. For a complete list of criteria, please go to: http://www.cde.ca.gov/ta/tg/sr/participcriteria.asp	5, 8, and 10 Required	Science
STS	SB MC	Spanish-speaking English learners who either receive instruction in their primary language or have been enrolled in a school in the United States less than 12 months.	2–11 Optional	Reading/Language Arts
EAP	SB MC PA	Voluntary.	11 Optional	English–Language Arts • Algebra II • Summative High School Mathematics

* All Grade 11 students are encouraged to participate.

Legend:

CAASPP – California Assessment of Student Performance and Progress

CAPA – California Alternate Performance Assessment

CBT – Computer based testing

CR – Constructed response

EAP – Early Assessment Program

MC – Multiple choice

PA – Performance assessment

PT – Performance tasks

SB – Standards-based

SR – Selected response


STS – Standards-based Tests in Spanish

Assembly Bill 484 Questions and Answers

Questions and answers regarding Assembly Bill (AB) 484, which establishes California's new statewide student assessment system. AB 484 was signed into law on October 2, 2013.

Last Updated: January 31, 2014

1. What is Assembly Bill (AB) 484?

Signed into law on October 2, 2013, [AB 484 \(Bonilla\)](#)  establishes California's new student assessment system, now known as the California Assessment of Student Performance and Progress (CAASPP). The CAASPP assessment system replaces the Standardized Testing and Reporting (STAR) Program. The primary purpose of the CAASPP assessment system is to assist teachers, administrators, and pupils and their parents by promoting high-quality teaching and learning through the use of a variety of assessment approaches and item types.

2. When does AB 484 take effect?

The provisions of AB 484 take effect on January 1, 2014.

3. Which subjects and grades are assessed in the CAASPP assessment system? (updated 6-Jan-2014)

AB 484 calls for the transition to a system of assessments and assessment tools that cover the full breadth and depth of the curriculum and promote the teaching of the full curriculum. This transition will take several years to complete.

For the 2013–14 school year, CAASPP is comprised of the following:

- Field test of the consortium (i.e., Smarter Balanced*) summative assessment for English–language arts (ELA) and mathematics in grades three through eight and grade eleven. Additional details about the field test can be found in the [Smarter Balanced Field Test Questions and Answer page](#).
- Grade-level science assessments, including the California Standards Tests (CSTs), California Alternate Performance Assessment (CAPA), and the California Modified Assessment (CMA), in grades five, eight, and ten.
- California Alternate Performance Assessment (CAPA) for ELA and mathematics in grades two through eleven.
- Voluntary for grade eleven students, the Early Assessment Program (EAP) in ELA and mathematics.
- Optional for local educational agencies (LEAs) to administer, the Standards-based Tests in Spanish. (Further information about grade levels and subjects will be forthcoming.)

4. **How does the passage of AB 484 affect the statewide testing of English learners?**(updated 12-Nov-2013)

AB 484 exempts English learners who have been attending school in the United States less than 12 months (i.e., recently arrived English learners) from taking the Smarter Balanced English–language arts assessments. All English learners, including recently arrived English learners, are required to take the Smarter Balanced mathematics assessments. In addition, they are required to take the grade-level science assessment (either the CST, CAPA, or CMA) in grades five, eight, and ten.

5. **Can the Smarter Balanced Field Test of 2014 be used as the “performance of basic skills” criterion for the reclassification of English learners?** (added 10-Jan-2014)

No. LEAs will not receive student-level results from the spring 2014 Smarter Balanced Field Test. In 2013–14, there is no need to change the local reclassification policy.

LEAs are to establish local reclassification policies that allow for “the effective and efficient conduct of the language reclassification process” (Title 5, *California Code of Regulations*, Section 11303). Further, LEAs must establish school district advisory committees on programs and services for English learners, and one of the key roles of this committee is to “review and comment on the district reclassification procedures” (Title 5, *California Code of Regulations*, Section 11308[c][6]). Therefore, school districts are afforded flexibility when identifying appropriate measures of academic performance when establishing local reclassification policy.

6. **With the suspension of the STAR program, which tests can be used for the reclassification of English learners in 2013–14?** (added 10-Jan-2014)


There is no change to the State Board of Education (SBE) guidelines for reclassification of English learners in 2013–14. *Education Code* Section 313(f)(4) calls for a comparison of student performance in basic skills against an empirically established range of performance in basic skills based on the performance of English proficient students of the same age.

While the spring Smarter Balanced Field Test will not yield any scores, the suspension of CSTs and CMAs does not impede or prohibit a school district’s ability to use the 2012–13 CST or CMA ELA results to be used as the academic criterion for reclassification during the 2013–14 school year.

7. **What resources are available to English learners during Smarter Balanced Field Testing?** (added 10-Jan-2014)

The Smarter Balanced Usability, Accessibility, and Accommodations Guidelines provide a list of the available universal tools, designated supports, and accommodations for use on the Field Test. All students have access to universal tools, such as highlighter, embedded ruler, strikethrough, and English dictionary. ELs also may have access to appropriate designated supports, such as stacked translations and bilingual dictionary. ELs with disabilities may use accommodations designated in their individualized

education program (IEP) or Section 504 plan, such as closed captioning or braille.

8. **Will there be a primary language assessment?** (added 10-Jan-2014)
In 2013–14, LEAs will have the option to administer the Standards-based Test in Spanish (STS) in reading language arts (RLA) for a pupil identified as limited English proficient enrolled in any of grades two through eleven, who receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months. The STS in RLA is available for this student population at no cost to the LEA and an apportionment will be paid.
9. **Has information about Smarter Balanced been translated into languages other than English?** (added 10-Jan-2014)
Yes. A Web page in Spanish provides downloadable factsheets for teachers, parents, and students as well as information on the assessment system. This information is located on the Smarter Balanced Assessment Consortium Parents and Students [Recursos en español](#)  Web page.
10. **What assessments will be used for the EAP Program?** (updated 10-Oct-2013)
The current augmented CSTs for ELA and mathematics will continue to be used for the EAP Program in 2013–14. Beginning in the 2014–15 school year, the grade eleven Smarter Balanced computer adaptive assessments for ELA and mathematics will replace the augmented CSTs that are used for the EAP.
11. **What tools will be provided to educators to assist them in implementing and assessing the Common Core State Standards (CCSS)?**
AB 484 provides LEAs, at no cost, with formative tools and interim assessments for ELA and mathematics. Formative assessment tools are assessment tools and processes that are embedded in instruction and used by teachers and pupils to provide feedback for purposes of adjusting instruction to improve learning. Interim assessments are assessments that are designed to be given at regular intervals throughout the school year to evaluate a pupil's knowledge and skills relative to a specific set of standards.
12. **Will science be tested under CAASPP?**
The grade-level CST, CAPA, and CMA science assessments will continue to be administered in grades five, eight, and ten until new tests aligned with the Next Generation Science Standards, adopted in September 2013, are implemented.
13. **Are previous STAR assessments available to LEAs?** (updated 10-Oct-2013)
STAR assessments that are not a part of the CAASPP assessment system may be available for use by LEAs. Additional information on the process to

order such assessments will be forthcoming. (Note that the STAR ELA , including the grad 4 & 7 writing assessments, and mathematics tests to be made available do not assess the CCSS.)

14. Can CAASPP results be compared with results from STAR?

AB 484 prohibits the comparison of CAASPP assessment results with results from STAR assessments that measure previously adopted content standards (e.g., CAASPP ELA assessment and STAR ELA assessments). CAASPP assessments that measure the same content standards as previously administered STAR assessments (e.g., science in grades five, eight, and ten) may be compared.

15. Does the passage of AB 484 affect the California High School Exit Examination (CAHSEE) requirement? (added 24-Oct-2013)

No. The CAHSEE is not addressed in AB 484, so the passage of AB 484 has no impact on the CAHSEE requirement. Unless legislation is introduced and passed changing the existing requirement, LEAs are still required to administer the CAHSEE and it remains a high school graduation requirement.

16. Where should questions about AB 484 be directed?

Questions about AB 484 should be directed to the CDE CAASPP Office by phone at 916-445-8765 or by e-mail at caaspp@cde.ca.gov.

** The Smarter Balanced Assessment Consortium is a multistate consortium developing assessments aligned with the CCSS for ELA and mathematics. California is a governing member of the consortium. More information on the Smarter Balanced assessments can be found on the [California Department of Education Smarter Balanced Web site](#).*

California Assessment of Student Performance and Progress 2014–15 Testing Windows

Pursuant to the *California Code of Regulations*, Title 5, Section 855, 2014–15

Subject and Grade Level	Requirement	Example
English–language arts and mathematics, in grades 3–8	The testing window shall not begin until at least 66 percent of a school's annual instructional days have been completed, and testing may continue up to and including the last day of instruction for the regular school calendar.	For a 180-day school year, 66 percent of instructional days occur after the 120 th instructional day, allowing for a 12-week window beginning on the 121 st instructional day.
English–language arts and mathematics, in grade 11	The testing window shall not begin until at least 80 percent of a school's annual instructional days have been completed, and testing may continue up to and including the last day of instruction for the regular school calendar year.	For a 180-day school year, 80 percent of instructional days occur after the 144 th instructional day, allowing for a 7-week window beginning on the 145 th instructional day.
Science for CST*, CMA*, CAPA*, in grades 5, 8, and 10	The testing window shall be administered during a window of 25 days that includes 12 days before and after completion of 85 percent of the school's instructional days.	For a 180-day school year, 85 percent of a school year occurs after day 152. In this example, the test window would occur between days 141 and 164.

*CAPA: California Alternate Performance Assessment

*CMA: California Modified Assessment

*CST: California Standards Test

On July 9, 2014, the California State Board of Education stated its intent to suspend the CAPA for English–language arts and mathematics, and to field test a new alternate assessment.

The California Assessment of Student Performance and Progress (CAASPP) Emergency Regulations may be found on the California Department of Education CAASPP Regulations Web page at <http://www.cde.ca.gov/re/lr/rr/caaspp.asp>.



Universal Tools, Designated Supports, and Accommodations for the California Assessment of Student Performance and Progress for 2013–14

Matrix One:

Purpose and Use: This document displays the universal tools, designated supports, and accommodations (embedded and non-embedded) allowed as part of the California Assessment of Student Performance and Progress (CAASPP) for 2013–14. This document should be used in conjunction with the *Smarter Balanced Assessment Consortium: Usability, Accessibility, and Accommodations Guidelines*, available at <http://www.cde.ca.gov/ta/tg/sa/access.asp>, and the *California Code of Regulations*, Title 5, sections 850 to 868 available at <http://www.cde.ca.gov/re/lr/rr/caaspp.asp>, in the determination of supports for individual pupils. The appropriate use of embedded and non-embedded universal tools, designated supports, and/or accommodations on CAASPP tests are restricted to only those identified in this document. Accessibility supports (an explanation of which can be found in Part 3, beginning on page nine) contains a listing of identified accessibility supports and information about requesting the use of the identified and unidentified accessibility supports.

Part 1: Embedded Supports

Embedded supports are digitally-delivered features or settings available as part of the technology platform for the computer-administered CAASPP tests. These supports do not change or alter the construct being measured.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics
	Reading	Writing	Listening	
American Sign Language	–	–	A	A
Breaks	U	U	U	U
Braille	A	A	A	A
Calculator	–	–	–	U (for specific items)
Closed Captioning	–	–	A	–

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil's individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics
	Reading	Writing	Listening	
Color Contrast	D	D	D	D
Digital Notepad	U	U	U	U
English Dictionary	–	U (for ELA- performance task- long essay[s], not short paragraph responses)	–	–
English Glossary	U	U	U	U
Expandable Passages	U	U	U	U
Global Notes	–	U (for ELA- performance task- long essay[s], not short paragraph responses)	–	–
Highlighter	U	U	U	U
Keyboard Navigation	U	U	U	U
Mark for Review	U	U	U	U
Masking	D	D	D	D
Math Tools (i.e., embedded ruler, embedded protractor)	–	–	–	U (for specific items)
Spell Check	–	U (for specific items)	–	–
Strikethrough	U	U	U	U

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil's individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics
	Reading	Writing	Listening	
Text-to-Speech	D (for items, not passages) A (for ELA reading passages, grades 6–8 and 11)	D	D	D
Translated Test Directions	–	–	–	D
Translations (Glossary)	–	–	–	D
Translations (Stacked)	–	–	–	D
Turn off Any Universal Tool	D	D	D	D
Writing Tools (i.e., bold, italic, bullets, undo/redo)	–	U (for specific items)	–	–
Zoom (in/out)	U	U	U	U

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil's individualized educational program (IEP) or Section 504 plan.

Part 2: Non-Embedded Supports

Non-embedded supports are available, when provided by the local educational agency (LEA), for either computer-administered or paper-pencil CAASPP tests. These supports are not part of the technology platform for the computer-administered CAASPP tests. These supports do not change or alter the construct being measured.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics	Science California Standards Test (CST) and California Modified Assessment (CMA)	Primary Language Standards Test in Spanish (STS) for Reading/Language Arts
	Reading	Writing	Listening			
Administration of the test to the pupil at the most beneficial time of day	A	A	A	A	A	A
Abacus	—	—	—	A	A	—
Alternate Response Options Includes adapted keyboards, large keyboards, StickyKeys, MouseKeys, FilterKeys, adapted mouse, touch screen, head wand, and switches. (previously known as “Assistive device that does not interfere with the independent work of the student on the multiple choice and/or essay responses [writing portion of the test]”)	A	A	A	A	—	—
American Sign Language	D (for items, not passages)	A	A	A	A	A (for items, not passages)
	A (for ELA reading passages, grades 6–8 and 11)					

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil’s individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics	Science California Standards Test (CST) and California Modified Assessment (CMA)	Primary Language Standards Test in Spanish (STS) for Reading/Language Arts
	Reading	Writing	Listening			
Bilingual Dictionary	–	D (for ELA- performance task- long essay[s], not short paragraph responses)	–	–	–	–
Breaks (previously known as “Extended Time” or “Test over more than one day for a test or test part to be administered in a single sitting” or “supervised breaks within a section of the test”)	U	U	U	U	U	U
Braille (paper-pencil tests)	A	A	A	A	A	A
Calculator	–	–	–	A (for specific items)	–	–
Color Contrast	D	D	D	D	–	–
Color Overlay (previously known as “Colored overlay, mask, or other means to maintain visual attention”)	D	D	D	D	U	U
English Dictionary	–	U (for ELA- performance task- long essay[s], not short paragraph responses)	–	–	–	–
Large-print versions of a paper- pencil test (as available)	A	A	A	A	A	A
Magnification (previously known as “Visual magnifying equipment”)	D	D	D	D	D	D
Math Tools (i.e., non-embedded ruler, non-embedded protractor)	–	–	–	U (for specific items)	–	–

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil’s individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics	Science California Standards Test (CST) and California Modified Assessment (CMA)	Primary Language Standards Test in Spanish (STS) for Reading/Language Arts
	Reading	Writing	Listening			
Multiplication Table	–	–	–	A (beginning in grade 4)	–	–
Noise buffers (e.g., individual carrel or study enclosure or noise-cancelling headphones)	D	D	D	D	D	D
Print on Demand	A	A	A	A	–	–
Pupil marks in paper-pencil test booklet (other than responses including highlighting)	U	U	U	U	U	U
Read Aloud (previously known as “Test questions and answer options read aloud to pupil or used audio CD presentation – excluding passages”)	D (for items, not passages)	D	D	D	A	A
	A (for ELA reading passages, grades 6–8 and 11: visually impaired in grades 3–8 and 11 who do not yet have adequate braille skills)					
Scratch Paper	U	U	U	U	U	U

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil's individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics	Science California Standards Test (CST) and California Modified Assessment (CMA)	Primary Language Standards Test in Spanish (STS) for Reading/Language Arts
	Reading	Writing	Listening			
Scribe (previously known as “Essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe, audio recorder, or speech-to-text converter” or “Student marks responses in test booklet and responses are transferred to a scorable answer document by an employee of the school, district, or nonpublic school” or “Student dictates multiple-choice question responses orally, or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter for selected-response items”)	D	A	D	D	A	A
Separate Setting (previously known as “Test individual student separately, provided that a test examiner directly supervises the student” or “Test student in a small group setting” or “Test administered at home or in hospital by test examiner”)	D	D	D	D	A	A
Simplified or clarified test administration directions (does not apply to test questions)	U	U	U	U	U	U
Special lighting or acoustics, assistive devices (specific devices may require CAASPP contractor certification), and/or special or adaptive furniture	D	D	D	D	D	D

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil’s individualized educational program (IEP) or Section 504 plan.

Universal Tool (U) Designated Support (D) Accommodation (A)	English-Language Arts			Mathematics	Science California Standards Test (CST) and California Modified Assessment (CMA)	Primary Language Standards Test in Spanish (STS) for Reading/Language Arts
	Reading	Writing	Listening			
Speech-to-Text (previously known as “Essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe, audio recorder, or speech-to-text converter” or “Student dictates multiple-choice question responses orally, or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter for selected-response items”)	A	A	A	A	A	A
Thesaurus	–	U (for ELA-performance task-long essay[s], not short paragraph responses)	–	–	–	–
Translated Test Directions	–	–	–	D	D	D
Translations (Glossary) (previously known as “Access to translation glossaries/word lists (English-to-primary language). Glossaries/word lists shall not include definitions or formulas.”)	–	–	–	D	D	D
The use of additional accessibility supports can be requested.	The LEA may submit a request in writing to the California Department of Education (CDE), prior to the administration of a CAASPP test, for approval for the use of an accessibility support. The LEA CAASPP Coordinator or CAASPP Test Site Coordinator shall make the request ten business days prior to the pupil’s first day of CAASPP testing.					

Universal Tools (U)	Are available for all pupils. Pupils may turn the support(s) on/off when embedded as part of the technology platform for the computer-administered CAASPP tests or may choose to use it/them when provided as part of a paper-pencil test.
Designated Supports (D)	Are features that are available for use by any pupil for whom the need has been indicated prior to the assessment, by an educator or group of educators.
Accommodations (A)	For the CAASPP assessment system, eligible pupils shall be permitted to take the tests with accommodations if specified in the pupil’s individualized educational program (IEP) or Section 504 plan.

Part 3: Accessibility Supports

Accessibility supports are not universal tools, designated supports, or accommodations. Accessibility supports shall be available if specified in the eligible pupil's individualized education program (IEP) or Section 504 plan. Accessibility supports may or may not have been previously identified (see page 10 for a list of identified non-embedded accessibility supports.)

Information about the purpose and use of the CAASPP Accessibility Support Request Form and the online submission is available at <http://californiatac.org/administration/forms/index.html>. The form must be submitted ten business days prior to the pupil's first day of testing. The CDE will reply to the request within four business days.

CCR Section 853.5(h) has identified the following non-embedded accessibility supports for English-language arts, mathematics, science and primary language. The LEA shall use the CAASPP Accessibility Support Request Form to request the use of these identified accessibility supports.

If an IEP team or Section 504 plan identifies and designates a resource not identified in Matrix One the LEA CAASPP Coordinator or the CAASPP Test Site Coordinator may submit the CAASPP Accessibility Support Request Form. Approval will be granted by the CDE for use of this unidentified resource based on the IEP team's and/or Section 504 plan's designation and if the accessibility support does not compromise test integrity or security. Smarter Balanced Assessment Consortium, in concert with the CDE, shall make a determination of whether the request changes the construct being measured outside of this approval process. This determination will be done after all testing has been completed.

Note: Title 5 of the *California Code of Regulations* (CCR), Section 853.5(h) states that the use of “accessibility supports that change the construct being measured by a CAASPP test invalidate the test score and results in a score that cannot be compared with other CAASPP results. Scores for pupils' tests with accessibility supports that change the construct being measured by a CAASPP test will not be counted as participating in statewide testing (and impacts the accountability participation rate indicator) but pupils will receive an individual score report with their actual score [raw score].” IEP teams should be made aware of this regulation when writing the IEP but should not allow the impact of a LEA's accountability to outweigh the needs of the students.

Identified Non-embedded Accessibility Supports that Change the Construct Being Measured:

	English-Language Arts			Mathematics	Science (CST and CMA)	Primary Language Test (STS for Reading/ Language Arts)
	Reading	Writing	Listening			
American Sign Language	X (for ELA passages, grades 3, 4, and 5)					X (for reading passages)
Bilingual Dictionary	X		X	X	X	X
Calculator				X (for non-specified items)	X	
English Dictionary	X		X	X	X	X
Math Tools (i.e., non-embedded ruler, non-embedded protractor)				X (for non-specified items)		
Multiplication Table				X (for grade 3)		
Read Aloud (previously known as "Test questions and answer options read aloud to student or used audio CD presentation – excluding passages")	X (for ELA passages, grades 3, 4, and 5)					
Thesaurus	X		X	X	X	X
Translated Test Directions	X	X	X	X		
Translations (Glossary) (previously known as "Access to translation glossaries/word lists (English- to-primary language). Glossaries/word lists shall not include definitions or formulas.)	X	X	X			



Testing Variations, Accommodations, and Modifications

Matrix Two:

Note: Refer to the *California Code of Regulations*, Title 5, Education (Sections 1200-1225, 11510-11517.5, and 1040-1048) for each specific assessment program for more detail.

Matrix of Variations, Accommodations, and Modifications for Administration of the California High School Exit Examination, California English Language Development Test and the Physical Fitness Test

Test Variation (1) Accommodation (2) Modification (3)	CAHSEE	CELDT	PFT
Administration of the test at the most beneficial time of day to the student	2	2	2
Arithmetic table or formulas (not provided) on the mathematics tests	3	Not Applicable	Not Applicable
Arithmetic table or formulas (not provided) on the science tests	Not Applicable	Not Applicable	Not Applicable
Assistive device that does not interfere with the independent work of the student on the multiple-choice and/or essay responses (writing portion of the test)	2	2	Not Applicable
Assistive device that interferes with the independent work of the student on the multiple-choice and/or essay responses	3	3	Not Applicable
Audio amplification equipment	1	1	1
Braille transcriptions provided by the test contractor	2	2	Not Applicable
Calculator on the mathematics tests	3	Not Applicable	Not Applicable
Calculator on the science tests	Not Applicable	Not Applicable	Not Applicable

All	All pupils may be provided these test variations.
Test Variation (1)	Pupils may have these testing variations if regularly used in the classroom.
Accommodation (2)	Eligible pupils shall be permitted to take the examination/test with accommodations if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.
Modification (3)	For the CELDT , eligible pupils shall be permitted to take the tests with modifications if specified in the eligible pupil's IEP or Section 504 plan. Eligible pupils shall be permitted to take the CAHSEE with modifications if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.

Test Variation (1) Accommodation (2) Modification (3)	CAHSEE	CELDT	PFT
Colored overlay, mask, or other means to maintain visual attention	1	1	Not Applicable
Dictionary	3	3	Not Applicable
Essay responses dictated orally or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter and the student provides all spelling and language conventions	2	2	Not Applicable
Essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe audio recorder, or speech-to-text converter (scribe provides spelling, grammar, and language conventions)	3	3	Not Applicable
Extra time on a test within a testing day	ALL	ALL	ALL
Large-print versions or test items enlarged (not duplicated) to a font size larger than that used on large print versions	2	2	Not Applicable
Manually Coded English or American Sign Language to present directions for administration (does not apply to test questions)	1	1	1
Math manipulatives on the mathematics tests	3	Not Applicable	Not Applicable
Manually Coded English or American Sign Language to present test questions and answer options	2 Math	2 Writing	Not Applicable
	3 ELA	3 Reading, Listening, Speaking	
	2 Writing Task		
Math manipulatives on the science tests	Not Applicable	Not Applicable	Not Applicable
Noise buffers (e.g., individual carrel or study enclosure)	1	1	Not Applicable

All	All pupils may be provided these test variations.
Test Variation (1)	Pupils may have these testing variations if regularly used in the classroom.
Accommodation (2)	Eligible pupils shall be permitted to take the examination/test with accommodations if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.
Modification (3)	For the CELDT , eligible pupils shall be permitted to take the tests with modifications if specified in the eligible pupil's IEP or Section 504 plan. Eligible pupils shall be permitted to take the CAHSEE with modifications if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.

Test Variation (1) Accommodation (2) Modification (3)	CAHSEE	CELDT	PFT
Special lighting or acoustics; special or adaptive furniture	1	1	Not Applicable
Student dictates multiple-choice question responses orally, or in Manually Coded English to a scribe, audio recorder, or speech-to-text converter for selected-response items	2	2	Not Applicable
Student marks in test booklet (other than responses) including highlighting	ALL	ALL	Not Applicable
Student marks responses in test booklet and responses are transferred to a scorable answer document by an employee of the school, district, or nonpublic school	2	2	Not Applicable
Supervised breaks within a section of the test	2	2	Not Applicable
Test administered at home or in hospital by a test examiner	2	2	2
Test administration directions that are simplified or clarified (does not apply to test questions)	ALL	ALL	ALL
Test individual student separately, provided that a test examiner directly supervises the student	1	1	1
Test over more than one day for a test or test part to be administered in a single sitting	2	2	Not Applicable
Test questions and answer options read aloud to student or used audio CD presentation	2 Math	2 Writing	Not Applicable
	3 ELA	3 Reading	
	2 Writing Task		
Test students in a small group setting	ALL	ALL	ALL
Visual magnifying equipment	1	1	Not Applicable

All	All pupils may be provided these test variations.
Test Variation (1)	Pupils may have these testing variations if regularly used in the classroom.
Accommodation (2)	Eligible pupils shall be permitted to take the examination/test with accommodations if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.
Modification (3)	For the CELDT , eligible pupils shall be permitted to take the tests with modifications if specified in the eligible pupil's IEP or Section 504 plan. Eligible pupils shall be permitted to take the CAHSEE with modifications if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.

Test Variation (1) Accommodation (2) Modification (3)	CAHSEE	CELDT	PFT
Word processing software with spell and grammar check tools enabled on the essay responses writing portion of test	3	3	Not Applicable
Word processing software with spell and grammar check tools turned off for the essay responses (writing portion of the test)	2	2	Not Applicable
Unlisted Accommodation	Check with CAHSEE/PFT Office prior to use	Check with CELDT Office prior to use	Check with CAHSEE/PFT Office prior to use
Unlisted Modification	Check with CAHSEE/PFT Office prior to use	Check with CELDT Office prior to use	Check with CAHSEE/PFT Office prior to use

All	All pupils may be provided these test variations.
Test Variation (1)	Pupils may have these testing variations if regularly used in the classroom.
Accommodation (2)	Eligible pupils shall be permitted to take the examination/test with accommodations if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.
Modification (3)	For the CELDT , eligible pupils shall be permitted to take the tests with modifications if specified in the eligible pupil's IEP or Section 504 plan. Eligible pupils shall be permitted to take the CAHSEE with modifications if specified in the eligible pupil's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.



English Learner Test Variations

Matrix Three:

Matrix of Test Variations for Administration of the California High School Exit Examination and the Physical Fitness Test for English Learners

Because the CELDT test is specifically for English learners (ELs), there are not separate guidelines for administering the CELDT to this population. Please refer to the Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments, the first table in this section, for additional variations for all students, including English learners.

Test Variation	CAHSEE	PFT
Access to translation glossaries/word lists (English-to-primary language). Glossaries/word lists shall not include definitions or formulas.	Variation Allowed	Not Applicable
Additional supervised breaks within a testing day <i>or</i> following each section (STAR) within a test part provided that the test section is completed within a testing day. A test section is identified by a “STOP” at the end of it.	Variation Allowed	Not Applicable
English learners (ELs) may have the opportunity to be tested separately with other ELs provided that the student is directly supervised by an employee of the school who has signed the test security affidavit and the student has been provided such a flexible setting as part of his/her regular instruction or assessment.	Variation Allowed	Variation Allowed
Hear the test directions printed in the test administration manual translated into the student’s primary language. Ask clarifying questions about the test directions in the student’s primary language.	Variation Allowed	Variation Allowed

California Alternate Assessment Participation Criteria

Eligibility for an alternate State assessment is based on a student's individualized education program (IEP) that reflects an emphasis on curricular instruction of the California contents standards based on alternate achievement standards. In order to aid an IEP team in its determination of whether a student should be assessed by an alternate assessment, the following shall be considered:

Circle "Agree" or "Disagree" for each task:

Agree	Disagree	The student demonstrates academic/cognitive ability and adaptive behavior that require substantial adjustments to the general curriculum. The student may participate in many of the same activities as his or her nondisabled peers; however, his or her learning objectives and expected outcomes focus on the functional applications of the general curriculum.
Agree	Disagree	The student cannot address the performance level assessed in the statewide assessment, even with accommodations or modifications.
Agree	Disagree	The decision to participate in the alternate assessment is <i>not</i> based on the amount of time the student is receiving special education services.
Agree	Disagree	The decision to participate in the alternate assessment is <i>not</i> based on excessive or extended absences.
Agree	Disagree	The decision to participate in the alternate assessment is <i>not</i> based on language, cultural, or economic differences.
Agree	Disagree	The decision to participate in the alternate assessment is <i>not</i> based on deafness/blindness, visual, auditory, and/or motor disabilities.
Agree	Disagree	The decision to participate in the alternate assessment is <i>not primarily</i> based on a specific categorical label.
Agree	Disagree	The decision for alternate assessment is an IEP team decision, rather than an administrative decision.

If the answer to any of these questions is "Disagree," the team should consider including the student in the California Assessment of Student Performance and Progress (CAASPP) (with the use of any necessary accommodations or modifications).

CALIFORNIA HIGH SCHOOL EXIT EXAM (CAHSEE)

Exemption for Eligible Students with Disabilities

Questions and Answers regarding the California High School Exit Examination Exemption for Eligible Students with Disabilities: California Education Code Section 60852.3 (ABX4 2).

1. What is EC Section 60852.3?

Beginning in the 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. The exemption from meeting the CAHSEE requirement ends June 30, 2012, unless legislation extending the exemption is enacted.

Updated Legislation July 2012:

Assembly Bill (AB) 1705 is a State Superintendent of Public Instruction sponsored bill to extend the implementation date of the alternative means until July 1, 2015 that in effect, extends the exemption to the CAHSEE for eligible students with disabilities.

2. Should students with disabilities be encouraged to continue to attempt to pass the CAHSEE despite the change in the law?

Yes, the CAHSEE represents academic standards which all students should be encouraged to meet. Students should continue to take the CAHSEE, and to receive appropriate remedial instruction, as it is not prohibited by the new law. However, as described below, a student in the class of 2012 who is eligible for the exemption allowed by California *Education Code* Section 60852.3 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. (See Legislation above for extension)

3. Do students need to have a specific disability to be eligible for the exemption?

California *Education Code* Section 60852.3 states that any student with disabilities (any type of disability, for any duration) who has an individualized education program (IEP) or Section 504 plan, and has satisfied or will satisfy all other state and local requirements for receipt of a high school diploma, 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. In July 2010 the SBE determined that an alternative means to the CAHSEE for eligible students with disabilities is feasible, and in February 2011, the SBE adopted regulations establishing July 1, 2012 as the alternative means implementation date. The exemption from meeting the CAHSEE requirement ends June 30, 2012, unless legislation extending the exemption is enacted.

Status of Alternative Means for Eligible Students with Disabilities

Alternative means to demonstrate competency in the content standards assessed by the California High School Exit Examination (CAHSEE) for eligible students with disabilities (SWDs) have been under consideration since 2009. Alternative means, identified as a two-tiered system consisting of both a screening of alternative scale scores determined to approximate a passing score on the CAHSEE and a collection of evidence (work samples), was determined by the State Board of Education (SBE) in July 2010 to be feasible. However, the proposed two-tiered alternative means is not implementable at this time given the lack of state resources, the move to Common Core State Standards (CCSS), and the conversations regarding the continued use of the CAHSEE in its current form.

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 the new 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 new exemption statute.

6. Does this exemption apply to students with disabilities with IEPs or 504 plans who completed all graduation requirements, except passing the CAHSEE, and received a certificate of completion in 2008 or 2009?

Yes, students with IEPs or Section 504 plans 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) public school district, 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 district adopt an IEP or 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 IEP or 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 and 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. May students with an IEP or 504 plan continue to take the CAHSEE or request a local waiver or must they be exempt from taking the CAHSEE?

The Individuals with Disabilities Education Act (IDEA) and Section 504 plan state that students with disabilities should participate in all state and district wide assessments with any accommodations or modifications that are documented in their IEP or Section 504 plan. Since the waiver provisions of California *Education Code* Section 60851(c) are in effect, students with IEPs or Section 504 plans may agree to continue to take the CAHSEE or request a local waiver.

11. May districts require students with disabilities to take 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 LEAs 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 (IEP) or Section 504 plan.

12. Is there any required notification to the parent, local board of education, State Board of Education or 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 individual education program or Section 504 plan team of which the parent is a member. Local educational agencies may develop their own forms for internal purposes. Parent notification with regard to this exemption should be treated like any other issue affecting eligibility for special education.

13. Must students with disabilities currently in grade ten take the CAHSEE?

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 Performance Assessment (CAPA) satisfy participation in AYP and do not take the CAHSEE in grade ten.

14. Does the exemption apply to students with disabilities currently in grades eleven and twelve?

The exemption applies to students with disabilities currently in grade twelve who have individual education programs (IEPs) or Section 504 plans that indicate the student is scheduled to receive a high school diploma, and that the student has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma, on or after July 1, 2009 and prior to June 30, 2012. Students are not required to pass the CAHSEE, but are not precluded from taking the examination. This should be determined by the IEP and Section 504 plan teams.

15. Are students with significant cognitive disabilities who participate in the CAPA eligible for the exemption?

Students with significant cognitive disabilities that have an individual education program (IEP) 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 and prior to June 30, 2012, 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.

16. 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 (LEAs) are encouraged to continue providing intensive instruction even though California *Education Code* Section 42605 authorizes categorical program flexibility. LEAs have flexibility in the use of the identified categorical program funds for 2008–09 through 2012–13. Program or funding requirements, as otherwise provided in statute, are not in effect.

Questions: High School & Physical Fitness Assessment Office | cahsee@cde.ca.gov | 916-445-9449

	California State Board of Education Policy – CAHSEE WAIVER GUIDELINES	POLICY #
		12-XX
	WAIVER GUIDELINES	DATE
	State Board of Education specific waiver request policy of the California High School Exit Examination requirement for eligible students with disabilities	May 2012
REFERENCES - California <i>Education Code</i> (EC) sections 56101 and 60851.		
HISTORICAL NOTES - None		

The State Board of Education (SBE):

- 1) Adopts the following criteria to define eligible students with disabilities (SWDs) pursuant to California EC Section 56101 for the purposes of the SBE establishing a waiver policy to streamline waiver requests from local educational agencies (LEAs) or special education local plan areas (SELPA) on the behalf of any eligible SWD who meet the following criteria:
 - Has an operative Individualized Education Program (IEP) adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)) that indicates that the eligible SWD has an anticipated graduation date and is scheduled to receive a high school diploma on or after July 1, 2012;
 - Has not passed the CAHSEE;
 - Has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma on or after July 1, 2012;
 - Has attempted to pass both portions of the CAHSEE (i.e., English language arts and mathematics) at least once, with the accommodations or modifications, if any, specified in the student's IEP or Section 504 plan; and
 - Has attained a performance level scale score of 300 (Basic) or above on the Standardized Testing and Reporting (STAR) Program California Standards Test (CST) in English language arts (ELA) grade ten or Algebra I without the use of a modification, or a scale score of 350 (Proficient) or above on the California Modified Assessment (CMA) in ELA grade ten or Algebra I.
- 2) Pursuant to EC Section 60851(b), all SWDs shall take the CAHSEE in grade ten for the purposes of fulfilling the accountability requirements of the federal Elementary and Secondary Education Act.
- 3) This policy will expire in two years unless the SBE reviews and renews the policy.

Medically Necessary OT/PT vs. Educationally Necessary OT/PT

Medically Necessary O.T/P.T	Educationally Necessary O.T/P.T
Therapy goals are primary	Educational goals are primary
Intervention is directed toward alleviation of a specific medical problem	Intervention is directed toward facilitating educational progress
Services tend to be delivered individually in a clinic or hospital setting	Services are collaborative. Much time must be given to communicating with other educational providers
Focus is based on developmental milestones and components of movement. The focus is on functional outcomes	Focus is on functional skills and adaptations that promote the attainment of educational objectives
Few responsibilities are delegated except to parents	More responsibilities are delegated to parents and other professionals
Clients generally come to the clinic to see the therapist	The therapist works in the school setting with the student in collaboration with school personnel
Referral is initiated by a physician	Services are provided only when is related to educational needs pursuant to an IEP
Need for services is primarily based on testing and clinical observations	Need for service is based primarily based on testing, classroom observations and input from the IEP team
Eligibility is based on a broad interpretation of need	Eligibility is based on need defined in educational terms, must include adverse impact on learning
Service model is direct service in a one-to-one treatment setting	Service model is focused on intervention plans which include direct/indirect, sensory diet and consultative services
Funding comes from private funds, Medi-cal and third party payers such as insurance companies	Funding comes from public funding, including local, state and federal

ACRONYMS

AAC	Augmentative Alternative Communication
ABA	Applied Behavioral Analysis
ACSA	Association of California School Administrators
ACSE	Advisory Commission on Special Education
ADA	American with Disabilities Act
ADA	Average Daily Attendance
ADR	Alternative Dispute Resolution
AIR	American Institutes for Research
ALJ	Administrative Law Judge
APE	Adapted Physical Education
API	Academic Performance Index
ARRA	American Recovery and Reinvestment Act
AT	Assistive Technology
AU	Administrative Unit
AYP	Adequate Yearly Progress
BCBA	Board Certified Behavioral Analyst
BD	Behavior Disorder
BHRS	Behavioral Health and Recovery Services
BICM	Behavior Intervention Case Manager
BIP	Behavior Intervention Plan
CAFSE	Coalition for Adequate Funding for Special Education
CAC	Community Advisory Committee
CAHSEE	California High School Exit Exam
CALPADS	California Longitudinal Pupil Achievement Data System
CalSTAT	California Services for Technical Assistance and Training
CALTIDES	California Longitudinal Teacher Information Data Education System
CAPA	California Alternate Performance Based Assessment
CASEMIS	California Special Education Management Information System
CBI	Community Based Instruction
CCF	Community Care Facility
CCR	California Code of Regulations
CCS	California Children Services
CDE	California Department of Education
CEIS	Coordinated Early Intervening Services
CELDT	California English Language Development Test
CMA	California Modified Assessment
CMH	County Mental Health
COE	County Office of Education
COLA	Cost of Living Adjustment
COTA	Certified Occupational Therapy Assistant
CSS	Communication Severity Scales
DDS	Department of Developmental Services

DHS	Department of Health Services
DIBELS	Dynamic Indicators of Basic Early Literacy
DIS	Designated Instructional Service
DMH	Department of Mental Health
DOF	Department of Finance
DOL	District of Location
DOR	District of Residence
DRDP	Desired Results Developmental Profile
DTT	Discrete Trial Training
EC	Education Code
ECE	Early Childhood Education
ED	Emotional Disturbance
EL	English Learner
ELA	English/Language Arts
ESEA	Elementary and Secondary Education Act
ESY	Extended School Year
FAA	Functional Analysis Assessment
FAPE	Free and Appropriate Public Education
FBA	Functional Behavioral Assessment
FERPA	Family Educational Rights and Privacy Act
FFA	Foster Family Agency
FFH	Family Foster Home
FIEP	Facilitated Individualized Education Program
FMTA	Focused Monitoring and Technical Assistance
FTE	Full time equivalent
GGRC	Golden Gate Regional Center
HIPAA	Health Insurance Portability and Accountability Act
HOH	Hearing of Hearing
HOUSSE	High, Objective, Uniform State Standards of Evaluation
HQ	Highly Qualified
IA	Instructional Assistant
ID	Intellectual Disability
IDEA	Individualized with Disabilities Education Act
IDEIA	Individuals with Disabilities Education Improvement Act
IDELR	Individuals with Disabilities Education Law Report
IDT	Inter-district Transfer
IHE	Institute of Higher Education
ISA	Individual Service Agreement (for NPS/NPA)
IAES	Interim Alternative Educational Setting
ICF	Intermediate Care Facility
IEE	Independent Educational Evaluation
IEP	Individualized Educational Program
IPP	Individual Program Plan

ISP	Individual Services Plan
IFSP	Individual Family Service Plan
ITP	Individual Transition Plan
IWEN	Individual with Exceptional Needs
JPA	Joint Powers Agreement
LAO	Legislative Analyst's Office
LCI	Licensed Children's' Institution
LEA	Local Educational Agency
LI	Low Incidence
LRE	Least Restrictive Environment
MOE	Maintenance of Effort
MTU	Medical Therapy Unit
MOU	Memorandum of Understanding
NASDSE	National Association of State Directors of Special Education
NOI	Notice of Insufficiency
NPS/NPA	Non-Public Schools/Non-Public Agencies
NSS	Necessary Small SELPAs
OAH	Office of Administrative Hearings
OCR	Office of Civil Rights
OHI	Other Health Impairment
OI	Orthopedic Impairment
O&M	Orientation and Mobility
OOHC	Out of Home Care
OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitative Services
OT /PT	Occupational and Physical Therapy
PDD	Pervasive Developmental Disorder
PECS	Picture Exchange Communication System
PENT	Positive Environment, Network of Trainers
PERS	Public Employee Retirement System
PHP	Parents Helping Parents
PI	Program Improvement
PLAAFP	Present Levels of Academic Achievement Functional Performance
PSRS	Procedural Safeguards and Referral Service
PS	Program Specialists
PWN	Prior Written Notice
RISE	Resources in Special Education
RLA	Responsible Local Educational Agency
RL	Revenue Limit
ROP	Regional Occupational Program
RSP	Resource Specialist Program
RSPS	Regionalized Services/Program Specialist Services
RS	Regionalized Services

RtI ²	Response to Instruction and Intervention
SACS	Standardized Account Code Structure
SAI	Specialized Academic Instruction
SCIA	Special Circumstance Instructional Assistance
SDA	Special Disabilities Adjustment
SDC	Special Day Class
SEA	State Educational Agency
SEEDS	Special Education Early Delivery System
SEIS	Special Education Information System
SELPA	Special Education Local Plan Area
SEMA	Special Education Maintenance of Effort Actuals to Actual
SEMB	Special Education Maintenance of Effort Budget to Actuals
SESR	Special Education Self-Review
SH	Severe Handicap
SIP	School Improvement Plan
SLD	Specific Learning Disability
SLI	Speech/Language Impairment
SLP	Speech/Language Pathologist
SLPA	Speech/Language Pathology Assistant
SNF	Skilled Nursing Facility
SOP	State Operated Programs (Diagnostics Centers, State Special Schools)
SOP	Summary of Performance
SPI	Superintendent of Public Instruction
SPP	State Performance Plan
SSC	School Services of California
SSID	State Student Identifier
STAR	State Testing and Reporting
STRS	State Teachers Retirement System
TBI	Traumatic Brain Injury
TDS	Therapeutic Day School
TEACCH	Treatment and Education of Autistic and Communication Handicapped Children
SELPA	Special Education Local Plan Area
VI	Visual Impairment
WOF	Written Offer of FAPE

ADMINISTRATIVE POLICIES AND PROCEDURES

This chapter, *Administrative Policies and Procedures*, outlines the policies, procedures, and local agreements that have been developed to assist in the provision of equitable and consistent program operation throughout the SELPA.

NORTH SANTA CRUZ COUNTY SELPA POLICIES

15.1	CHARTER SCHOOLS.....	15-1
15.2	INDEPENDENT EDUCATIONAL EVALUATIONS (IEE).....	15-7
15.3	FEDERAL MAINTENANCE OF EFFORT	15-14
15.4	PARENTALLY-PLACED PRIVATE SCHOOL STUDENTS WITH DISABILITIES.....	15-18
15.5	PROGRAM TRANSFER	15-56
15.6	SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE (SCIA).....	15-58
15.7	POSITIVE BEHAVIORAL INTERVENTIONS	15-76

CHARTER SCHOOLS

- A. Rationale: This policy applies to all Charter Schools that are chartered by educational entities located within the North Santa Cruz County SELPA. Additionally, this policy applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA [Education Code 47605 (k) (1)]. .
- B. Policy Statement: Students enrolled in charter schools are entitled to special education services in a manner similar to those enrolled in public school in the district, charter schools within the SELPA shall comply with all requirements of applicable state and federal law regarding provision of special education services (Education Code §56000 et seq., Individuals with Disabilities Education Act 20 U.S.C. Chapter 33). A charter school shall not discriminate against any pupil in its admission criteria, including on the basis of disability. The charter school's participation in the SELPA will be determined by whether it operates as a school of its chartering district or an LEA member of a SELPA. If the charter school is operating as an LEA member of the SELPA, the charter school shall be treated as all other SELPA-member LEAs by the administrative unit, SELPA Governing Board and the SELPA Administrator.

Charter schools that are categorized as dependent and not deemed a LEA for special education purposes are aligned with the chartering district. They will participate in the federal/state funding in the same manner as the other schools within the chartering district. The chartering district shall be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education services in the same manner that is consistent with all applicable provisions of state and federal law.

A charter school may apply to become a LEA for special education purposes. The Special Education Coordinating Agency Governing Council shall determine whether the charter school has provided requisite assurances. Once approved as a LEA, the charter school shall participate in the governance of the SELPA in the same manner as other school districts within the SELPA.

- C. Charter Petition and Review by SELPA :

Prior to approval or renewal of a petitioning charter, the superintendent or designee of the chartering entity shall consult with the SELPA Administrator regarding the sufficiency of items related to the provision of special education services contained within the petition. The petition shall provide that no student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services, regardless of the availability of services the student needs within the charter school's regular education program. Each charter

petition must contain a reasonably comprehensive description of the charter school's education program, as it related to the provision of special education services, including the following:

1. All eligible students enrolled in the charter school will receive appropriate special education services in accordance with applicable state and federal laws and regulations, as well as the local plan;
2. The district where the student resides, if different than the chartering entity, is not responsible for providing special education services to students that are enrolled in the charter school;
3. No student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services;
4. Staff members providing special education services are appropriately credentialed;
5. The facility used by the charter school does not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program; and
6. Disenrollment, suspension, and expulsion policies and procedures shall ensure that the protections of federal and state law are afforded to special education students.
7. Dispute resolution procedures that will apply to any disputes between educational entities, including the SELPA, regarding the provision of special education services in the charter school.

Each charter petition must contain a reasonably comprehensive description of the charter school's educational program. This description should include information about the specialized instruction and services available at the charter school and the procedures for ensuring that students are referred, assessed, and served in a timely manner. The petition or a memorandum of understanding (MOU) must also identify the entity that will be responsible for providing special education instruction and related services, reference any anticipated transfer of special education funds between the granting entity and the charter school for the purposes of providing special education and related services, and include provisions for sharing deficits in funding.

D. Categories of Charter Schools

For the purpose of provision of special education services, charter schools shall be deemed either a public school within the chartering LEA or an LEA that receives funds and provides services independent of the chartering entity. All approved charter schools will be deemed a public school within the chartering entity until the charter school has been deemed an LEA following this policy, the local plan and approval by the SELPA

Governing Board. The categorization as a separate LEA will become effective on the first day of the fiscal year (July 1), following final approval by the SELPA Governance Board.

E. Public School within a School District or County Office

Charter schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools or programs within the chartering entity. The chartering entity may not grant a charter on the condition that the charter school must become an LEA. The chartering entity will determine the equitable share of funding and/or services to be distributed to the charter school, as well as policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students enrolled in other schools or programs administered by the chartering entity.

The chartering entity will:

1. Receive all applicable special education funds as specified in the SELPA's AB 602 Funding Allocation Plan and ensure that the allocated funding is distributed to the charter to provide or procure special education and related services and/or used by the LEA to provide or procure special education and related services to the charter
2. Represent the needs of the charter school in the SELPA governance structure;
3. Be jointly responsible for ensuring that all eligible students enrolled in the charter school are appropriately referred, assessed and served consistent with all applicable provisions of state and federal law, in a timely manner, and in the same manner as a student with disabilities who attends another public school of that LEA, no matter where the child may live; and
4. Ensure that the charter contributes an equitable share of its charter school block grant funding to support LEA-wide excess costs for special education instruction and services, including, but not limited to, special education instruction and services for student with disabilities who are enrolled in the charter school.

The chartering entity and charter school may enter into agreements or Memo of Understanding (MOU) whereby the charter school contributes a fair share of its funds towards the costs of district wide special education services, programs, and administration which its chartering district funds out of its general funds.

F. Charter School as an LEA within the SELPA

A charter school that includes in its petition for establishment or renewal, or that otherwise provides verifiable written assurances that the charter school will participate as an LEA for the purposes of providing special education, may apply to become a member of the North Santa Cruz County SELPA or another SELPA. A request from a charter

school to participate in the North Santa Cruz County SELPA will be treated in the same manner as such a request from a school district. The charter petition or other written assurances should state that prior to final approval of a request to be deemed an LEA, the charter school will be deemed a public school within the chartering entity.

Charter schools that wish to become member LEAs in the North Santa Cruz County SELPA must submit their application on or before February 1 of the school year prior to implementation (i.e., one year and one day) of the school year preceding the school year in which the charter school anticipates operating as a member LEA within the SELPA. The SELPA Administrator and Special Education Council will review the application and develop an action recommendation for the SELPA Governance Board. The SELPA Governance Council will take action to approve or disapprove the charter school as a member LEA.

The SELPA Governance Council decision will be based on whether the charter school has met all requirements to be included as a member LEA of the SELPA. These requirements include:

1. Will meet all applicable requirements of state and federal laws and regulations, including compliance with the Individuals with Disabilities Education Act (IDEA, 20 USC 1400 et seq.), Section 504 of Public Law 93-112, 20 USC 8065 (a) and the provisions of the California Education Code, Part 30;
2. Will ensure that all individuals with exceptional needs (ages birth to 22) shall have access to appropriate special education programs and services;
3. Will assure that no child eligible for special education and related services seeking to enroll in the charter school will be denied nor discouraged from enrollment due to disability or due to the charter school's concern about its ability to provide appropriate services;
4. Will assure that the charter school will fully inform parents of students with disabilities seeking enrollment in the charter school of their rights and educational options available;
5. Will deliver special education and related services to any eligible child enrolled in the charter;
6. Will expend all state and federal special education funds for the sole purpose of providing special education instruction and/or services to eligible students with disabilities;
7. Will assure the charters obligation to "search and serve," pay the costs of special education whether or not those costs are adequately covered from the charter's SELPA allocation, and that it has adequate reserves to cover those costs;
8. Will assure the charter will adhere to all policies, procedures, obligations and requirements of the SELPA Local Plan For Special Education, including the Funding Allocation Model;
9. Will utilize SELPA-approved forms and documents including use of internet based IEPs, and will follow all SELPA agreements, policies, and procedures;

10. Will ensure that students will be instructed in a safe environment with no physical barriers that would prevent full participation in educational and extracurricular activities;
11. Will provide the SELPA with a copy of the charter school's original petition, as approved by the chartering entity and any subsequently approved amendments to the charter;
12. Will follow all federal and state laws regarding discipline and assume funding responsibility for change of placement/alternative settings due to disciplinary issues;
13. Will provide SELPA will copy of charter's current operating budget in order to assure fiscal responsibility in accordance with Ed Code 42130 and 42131;
14. Understands its legal and financial responsibilities to provide appropriate special education services to eligible students. Financial responsibilities may include, but are not limited to, instruction, related services, transportation, non-public school/agency placements, inter/intra SELPA placements, due process hearing proceedings and attorney fees; and
15. Will not seek defense or indemnification from the SELPA or SELPA members unless liability is the result of acts or omissions of other agencies, their agents or employees, while performing services under an agreement.

If approved, LEA status will become effective on July 1 of the next school year. Prior to final approval and full acceptance as a member LEA, the charter school will continue to be deemed a public school of the chartering district. Once approved, the LEA charter school will choose a representative to the Governance Board, a representative to the Special Education Council, and the ad hoc AB 602 Finance Committee. The representative to the Governance Board must be the chief executive officer pursuant to the Governance Board bylaws. The representative to the Special Education Council and AB 602 Finance Committee must be an authorized agent designated by the governing board of the charter school.

If disapproved of LEA status, the SELPA administrator will provide the applicant with a written finding that delineates the reason(s) for disapproval.

Once deemed a member LEA, the charter school, like other member LEAs shall:

1. Fully participate in governance of the SELPA in the manner outlined in the local plan and shall choose a representative to the SELPA Governance Council and to the SELPA Special Education Council;
2. Accept all responsibilities of an LEA in the implementation of the local plan;
3. Fully comply with policies and procedures outlined in the local plan and procedural handbooks;
4. Contribute to, participate in, and receive the benefits of regionalized services;

5. Receive state and federal funding for special education in accordance with the SELPA AB 602 Funding Allocation Plan;
6. Be responsible for all costs incurred in the provision of special education and related services, including but not limited to instruction, services, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees, without regard for the location in which the student may reside;
7. Document that all state and federal special education funds apportioned to the charter school are used for the sole purpose of providing special education instruction and/or related services to identified students with disabilities; and
8. Return any special education apportionment not used solely for the purpose of providing special education instruction and/or related services to identified students with disabilities, if recaptured by the SELPA for reallocation to other LEAs.
9. Annually collect data and submit to the SELPA by June 30 of each year, the total number of students who submitted an application and were accepted into the charter school in the previous school year (i.e., submit June 30, 2013 for the 2012-2013 school year):
 - a. the number of general education and special education student (students with either Individualized Education Plan (IEP) or Section 504 Plan) who applied for admission to the charter school; and
 - b. the number of general education and special education students who were admitted to the charter school during the previous school year.

Following approval by the Governance Board, the SELPA local plan must be amended, the governing boards of all participating LEAs must approve the amendment, and the amended local plan must be submitted to CDE for final approval. If the approval of a charter school as an LEA requires a change in the SELPA AB 602 Funding Allocation Plan, such change shall be adopted pursuant to the policy-making process outlined in the local plan.

The terms of this policy are severable. In the event that any of the provisions are determined to be unenforceable or invalid for any reason, the remainder of the policy shall remain in effect, unless mutually agreed otherwise by the members of the SELPA Governing Board after review by the Special Education Council. The SELPA Governing Board members agree to meet to discuss and resolve any issues or differences relating to invalidated provisions in a timely and proactive fashion.

INDEPENDENT EDUCATIONAL EVALUATION

Policy:

North Santa Cruz County Special Education Local Plan Area (SELPA) has developed this policy, corresponding procedures and criteria which govern independent educational evaluations. For purposes of this policy, the term “SELPA” also includes the appropriate school district and/or administrative unit responsible for your child’s education. Parents should be sure to read the entire document carefully. The Policy, Procedures and Criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about independent educational evaluations should contact the SELPA administrator of the North Santa Cruz County SELPA or contact the California Department of Education as outlined in their Notice of Procedural Safeguards.

NOTICE TO PARENTS

- Please read this document before obtaining or paying for an independent educational assessment. This document may limit your right to reimbursement.
- Before obtaining an independent educational assessment, please contact the special education administrator to discuss your assessment questions and options.
- The district will not automatically reimburse parents who unilaterally obtain independent educational assessments. Please review this document for further information about a parent’s right to obtain independent assessments at public expense.
- An independent educational evaluation, if not obtained in accordance with SELPA’s policy, procedures and criteria, may not be considered by your child’s IEP team. Please ensure that any independent educational evaluation conforms to SELPA requirements.

DEFINITIONS:

“Independent educational evaluation” (IEE) means an evaluation conducted by a qualified examiner who is not employed by the responsible local educational agency.

“Public expense” means that district either pays for the full cost of the evaluation or evaluation components or ensures that the evaluation or evaluation components are otherwise provided at no cost to the parent.

PARAMETERS FOR SEEKING INDEPENDENT EDUCATIONAL EVALUATION:

If a parent disagrees with an evaluation by the district and seeks an independent educational evaluation, the district will either initiate a due process hearing to show that its evaluation is appropriate or will provide the parent an opportunity to obtain an independent educational evaluation at public expense. Disagreement with an IEP offer of a free, appropriate public education (FAPE) is not the equivalent of disagreement with an assessment. A parent is entitled to only one

independent educational evaluation at public expense each time the LEA conducts an evaluation with which the parent disagrees.

The SELPA requires that the parent first inform the district in writing or communicate to the district at an IEP meeting that the parent:

1. Disagrees with district's evaluation; and
2. Is requesting an independent educational evaluation at public expense.

EXPLANATION OF DISAGREEMENT:

If parents request an independent educational evaluation at the expense of the district, the parents will be asked for a reason why they object to the district's evaluation. The explanation by the parent is not required. In addition, the district may not unreasonably delay completion of a new assessment, completion of the independent educational evaluation at public expense, or the initiation of due process hearing to defend its evaluation. There is no requirement that the parents specify areas of disagreement with district's evaluation as a prior condition to obtaining the independent educational evaluation.

NORTH SANTA CRUZ COUNTY SELPA'S RESPONSE TO A REQUEST FOR AN INDEPENDENT EVALUATION:

If parents request an independent educational evaluation at public expense, the district will, without unnecessary delay, offer the parent an alternative examiner (option 1 below) and also provide options for an independent educational evaluation at public expense (option 2, 3 or 4 below) as follows:

1. A staff member from another school;
2. A staff member from another LEA in the SELPA;
3. A staff member from another SELPA;
4. The Diagnostic Center; or
5. A private sector provider.

Once the parent chooses an option, the district will arrange for the alternative evaluator, contract with an independent examiner, or otherwise ensure that an independent education evaluation is provided at public expense.

If the district initiates a hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

TIMELINE REGARDING INDEPENDENT EDUCATIONAL EVALUATIONS:

In the interest of consistency between public and private evaluations, the SELPA encourages parents to choose an option for additional assessment offered by the district within 15 days of receiving the options.

After the parent of the student with a disability chooses an option for an additional evaluation and signs an assessment plan, the district will arrange for or initiate a contract with the examiner within 15 days of the date that the parent's written consent to the evaluation is received by the district.

The district will make arrangement for a new evaluation, or contract with a qualified independent examiner who is able to provide a written report for an IEP meeting, within 60 days of the date of contracting for an evaluation. If the selected evaluator cannot meet the time line, the district will inform the parent and ask for agreement to an extension of time or selection of another option.

INFORMATION PROVIDED TO PARENTS:

Upon parent request for an independent educational evaluation, the SELPA will provide the parents with a copy of its policy, procedures and criteria for independent educational evaluations.

CONSIDERATION OF THE INDEPENDENT EDUCATIONAL EVALUATION:

Independent educational evaluations are designed to determine the educational needs of a student with disability. The district is responsible for determining placements and services. Therefore, the district will consider recommendations obtained in independent educational evaluations completed in accordance with this policy and its implementing procedures and criteria. However, independent educational evaluations will not control district's determinations and may not be considered if not completed by a qualified professional, as determined by the district.

PARENT INITIATED EVALUATIONS:

If the parents obtain an independent educational evaluation at private expense, the results of the evaluation:

1. Must be considered, if it meets the district's criteria, in any decision made with respect to the provisions of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding that student.

EVALUATIONS ORDERED BY HEARING OFFICERS:

If a hearing officer requests an independent educational evaluation as part of a hearing the cost of the evaluation must be at the district's expense.

NORTH SANTA CRUZ COUNTY SELPA's CRITERIA:

1. If an independent educational evaluation is at the district's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications of the examiner, costs limits, and use of approved instruments must be the same as the criteria the district uses when it initiates an evaluation.

2. If the LEA observed the student in conducting the evaluation with which the parents disagree or if its assessment procedures allow in-class observations, the independent evaluator will be provided with an equivalent opportunity to observe the student in the current educational setting, and to observe the LEA's proposed setting, if any. This opportunity shall also be provided if the parents obtain an evaluation at private expense.
3. The LEA shall define the nature and scope of an independent evaluator's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, LEA personnel who will participate in the observation and restrictions on student/teacher interactions.

LOCATION LIMITATIONS FOR EVALUATORS

Evaluators will be located within the greater Santa Cruz area including: Santa Clara, Monterey, San Benito and San Mateo counties. Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using personnel outside the specified area in order to obtain an appropriate evaluation. If a qualified evaluator is available within the above physical boundaries, such request will be denied. Any expenses beyond that directly related to preparation of the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation.

Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness, under the specific facts of a given case, of using an evaluator meeting other qualifications. (Ed. Code 56320 (b) (3))

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Psychologist
Adaptive Behavior	Credentialed Special Education Teacher School Psychologist Licensed Psychologist
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Auditory Perception (Central Auditory Processing)	Licensed or Credentialed Speech/Language Pathologist

Behavioral	Credentialed Special Education Teacher Certified Behaviorist School Psychologist Licensed Psychologist Licensed Psychiatrist
Cognitive	School Psychologist Licensed Psychologist
Health (including neurological)	Licensed Physician Nurse
Motor	Licensed Physical Therapist Registered Occupational Therapist Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	School Psychologist Licensed Psychologist Licensed Psychiatrist
Visual Acuity/Developmental Vision	Licensed Ophthalmologist Licensed Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher School Psychologist Registered Occupational Therapist
Transition	Credentialed Special Education Teacher

Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will not be in an amount greater than the actual cost to the parents and will be subject to proof of payment.

The cost of a psycho-educational IEE shall not exceed \$3,500.00 absent extraordinary circumstances. The cost of a speech and language, occupational therapy, and/or adaptive physical education shall not exceed \$1,500.00. The cost of other types of IEEs will be considered on a case-by-case basis. Guidelines for all IEE costs are calculated by considering time required for the assessment and the appropriate LEA employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique

circumstances justifying the selection of an evaluator whose fees fall outside these criteria. The LEA will not necessarily be required to fund the attendance of the assessor at the IEP team meeting convened to consider the IEE.

When insurance will cover all or partial costs of the IEE, the LEA will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy,
2. An increase in premiums or the discontinuance of the policy, or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the LEA reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

1. Provide protocols of all the assessments;
2. Provide a written report prior to the IEP team meeting; and
3. Attend relevant IEP Team meetings via telephone or in person to discuss their findings.

Independent evaluators must agree to release their assessment information and results to the LEA prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.

All independent educational evaluators must utilize testing and assessment materials and procedures which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the student's primary language or other mode of communication, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible. All assessment instruments must have been validated for the specific purpose for which they are used, and be administered by trained personnel in conformance with instructions provided by the publisher.

CIRCUMSTANCES RESULTING IN EVALUATIONS NOT FUNDED BY THE DISTRICT:

Because the parent must first disagree with the district's evaluation in writing, the district does not have an obligation to reimburse parents for private evaluations obtained prior to the date that the district's evaluation is completed and discussed at an IEP team meeting. The district is not obligated to reimburse parents for privately obtained evaluations if the parent disagrees with the district's evaluation and independently seeks a private evaluation without first

notifying the district in writing of their disagreements with the district's assessment and requesting an independent educational evaluation from the district except as provided below.

Reimbursement will be in accordance with the North Santa Cruz County SELPA policy, procedures and criteria and in an amount no greater than the actual cost to the parents. In all cases, if the district initiates a due process hearing to show that the district's evaluation is appropriate, no reimbursement shall be made unless ordered by a Hearing Officer.

EDUCATION CODE

56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements

56506(c) Due process rights of pupil and parent

CALIFORNIA CODE OF REGULATIONS, TITLE 5

3022 Assessment Plan.

UNITED STATES CODE, TITLE 20

1415(b) (I)

CODE OF FEDERAL REGULATIONS, TITLE 34

300.502 Independent Educational Evaluation

FEDERAL MAINTENANCE OF EFFORT REQUIREMENT

POLICY

The North Santa Cruz County Special Education Local Plan Area ("SELPA") shall meet Maintenance of Effort (MOE) regulations requiring the federal funds be used only to pay the excess costs of providing special education and related services to children with disabilities and to supplement and not supplant state and local funds for special education (ref: Title 34 Code of Federal Regulations CFR Section 300.231-300.233).

The SELPA Administrative Unit, as the grantee of federal funds from the State Department of Education, shall distribute all or part of the federal funds received to participating Local Education Agencies (LEA) within the SELPA through a sub-granting process and shall annually conduct and report to the State Education Agency (SEA) the required MOE information. The LEAs within the North Santa Cruz County SELPA shall compile and submit budget and expenditure information including SEMA and SEMB reports to the SELPA.

The two required comparison tests are as follows:

- I. **First Comparison** – Grant year Budget to Prior Actual Expenditures (SEMB)
 - LEA will submit to the SELPA the required MOE documentation by each year by date due per CDE's Timely and Complete Reporting periods.
 - Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole.
 - Comparison is made before the allocations of Part B funds are made to the LEAs
- A. **Section 1** - Each year LEAs should record any of the exceptions listed below (34 CFR Section 300.204).
 1. These items will reduce the amount required to meet MOE:
 - a. The voluntary departure , by retirement or otherwise, or departure for just cause, of certificated and/or classified special education or related services personnel (does not include contract non-renewal or staff layoff due to budget shortfall) who are replaced by qualified, lower-salaried staff
 - b. A decrease in the enrollment of children with disabilities
 - c. The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:
 1. Has left the jurisdiction of the agency; OR
 2. Has reached the age at which the obligation of the agency to provide a free appropriate public education (FAPE) to the child has terminated; OR
 3. No longer needs the program of special education.

- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities (must have per unit cost of \$5,000 or more)

B. Section 2 – “50 Percent Rule”

LEAs who have a “meets requirements” compliance determination under IDEA, Section 613(a) and not found to be *Significantly Disproportionate* for the current year are eligible to use this option to reduce their MOE requirement by:

1. Calculating 50 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR Section 300.233)

C. Section 3 –

Part A – Combined State and Local Expenditures

This comparison method determines if the LEA met the MOE requirement based on combined state and local expenditures.

Part B – Local Expenditures Only

This comparison method determines if the LEA met the MOE requirement based on local only expenditures.

1. Either local or state and local funding sources are used for comparison at the SELPA level, as well as for each individual LEA.
2. When the capability exists to isolate “local only” funding sources the comparison may be made using only “local” resources.
3. Comparison may be either total amount or a per capita (per child with a disability unless some other basis is permitted by the SEA for determining “per capita”) basis (34 CFR Section 300.231(c))

If the SELPA as a whole passes Comparison 1, the SELPA as a whole, is eligible to receive Part B funding.

If the SELPA still fails Comparison 1, the SELPA, as a whole, and all of its participating members will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA, as a whole to meet MOE requirements.

If the SELPA, as a whole, passes Comparison 1, but one or more individual LEA sub-grant recipients fail Comparison 1, they shall have until P-1 certification occurs to comply with MOE requirements. If an LEA has not rectified the problem by the date that P-1 certification is made, the LEA’s proportionate share of the federal funds shall be re-distributed, on a proportionate share basis to those LEA sub-grant recipients that complied with the MOE requirements at Comparison 1, but only to the extent that they don’t reduce state and local or “local only” expenditures to the point that they create MOE problems for the LEA

Second Comparison – Prior Year Actuals vs. Second Prior Year Actuals (SEMA)

- Actual local or state and local expenditures must equal or exceed prior year expenditures
 - Comparison is made after unaudited actuals data is submitted to CDE on September 15th.
- D. Section 1 - Each year LEAs should record any of the exceptions listed below (34 CFR Section 300.204).
2. These items will reduce the amount required to meet MOE:
 - e. The voluntary departure , by retirement or otherwise, or departure for just cause, of certificated and/or classified special education or related services personnel (does not include contract non-renewal or staff layoff due to budget shortfall) who are replaced by qualified, lower-salaried staff
 - f. A decrease in the enrollment of children with disabilities
 - g. The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:
 4. Has left the jurisdiction of the agency; OR
 5. Has reached the age at which the obligation of the agency to provide a free appropriate public education (FAPE) to the child has terminated; OR
 6. No longer needs the program of special education.
 - h. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities (must have per unit cost of \$5,000 or more)
- A. Section 2 – “50 Percent Rule”
- LEAs who have a “meets requirements” compliance determination under IDEA, Section 613(a) and not found to be *Significantly Disproportionate* for the current year are eligible to use this option to reduce their MOE requirement by:
1. Calculating 50 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR Section 300.233)
- B. Section 3 –
- Part A – Combined State and Local Expenditures
- This comparison method determines if the LEA met the MOE requirement based on combined state and local expenditures.
- Part B – Local Expenditures Only
- This comparison method determines if the LEA met the MOE requirement based on local only expenditures.

1. Either local or state and local funding sources are used for comparison at the SELPA level, as well as for each individual LEA.
2. When the capability exists to isolate “local only” funding sources the comparison may be made using only “local” resources.
3. Comparison may be either total amount or a per capita (per child with a disability unless some other basis is permitted by the SEA for determining “per capita”) basis (34 CFR Section 300.231(c))

If the SELPA, as a whole, still fails Comparison 2 after applying the exceptions, the SELPA will be billed by the State for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort. The SELPA AU will then bill the individual LEA sub-grant recipients that failed MOE Comparison Test 2 for the amount the LEA(s) failed to spend from local or state and local funds to maintain its level of effort.

If the SELPA, as a whole, passes Comparison 2, but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, the SELPA AU will bill them for the amount that the LEA failed to spend from local or state and local funds to maintain their level of effort. The amount must be paid to CDE by the LEA from its State and local funding in the budget year.

For the purposes of Maintenance of Effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all, or part, of those funds as sub-grants to participating LEAs. The SELPA AU is not a sub-grant recipient and, therefore, is not required to meet MOE requirements.

PARENTALLY-PLACED PRIVATE SCHOOL STUDENTS with DISABILITIES

Policy:

The child find process in North Santa Cruz County SELPA shall be designed to ensure equitable participation of parentally-placed private school children with disabilities and an accurate count of such children. Compliance with this policy and its procedures is intended to ensure evidence of compliance with all federal and State laws and regulations concerning children so identified.

Definitions:

District of Residence, ("DOR"): As used in this policy, the district of residence refers to the school district within which boundaries the child with a disability resides.

District of Location ("DOL"): As used in this part, the Local Educational Agency, LEA, refers to the school district where the private school or facility is located.

Private School Children with Disabilities: As used in this policy, "private school children with disabilities" means a child with disabilities enrolled by their parents in private elementary or secondary school or facility, other than students with disabilities placed by the school district in a nonpublic, nonsectarian school pursuant to EC 56365. (EC 56170).

Private School or Facility: As used in this policy, "private school or facility" means: (1) private full-time day school pursuant to California Education Code section 48222 (including religious schools); (2) private tutor pursuant to California Education Code section 48224; and/or (3) any other California Department of Education ("CDE") identified educational institution, program, arrangement, or facility not sponsored, maintained, or managed by the school district and for which the school district does not collect average daily attendance funds; (4) CDE authorized nonprofit private school affidavit.

Representatives of Private School Students: As used in this policy, "representatives of private school students" may include private school administrators, teachers, students and parents.

Procedures:

The following procedures shall be followed by the school districts in the North Santa Cruz County Special Education Local Plan Area ("SELPA") to ensure that the District:

Locates, identifies, and evaluates all children ages five (5) to twenty-one (21) with disabilities voluntarily enrolled by their parents in private schools including religious schools who may be eligible for special education services; and offers a free and appropriate public education (FAPE) to all children ages five (5) to twenty-one (21) with disabilities, enrolled voluntarily by

their parents in private schools including religious schools, who are determined to be eligible for special education services who are enrolled in public schools.

Consultation

The DOL shall consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children. Such consultation shall include pursuant to PL 108-455 Section 612 (10) (A) (ii)(V)(iii)(I-V) and Education Code 56172 (b) & (c):

- The child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- The determination of the proportionate amount of Federal funds available to serve parentally-placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;
- The consultation process among the DOL, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally-placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- However, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and
- However, if the DOL disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the DOL shall provide to the private school officials a written explanation of the reasons why the DOL chose not to provide services directly or through a contract.

When timely and meaningful consultation as described above has occurred, the DOL shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the

DOL shall forward the documentation of the consultation process to the CDE.

A private school official has the right to submit a complaint to the California Department of Education (CDE), if:

- The DOL's consultation was not meaningful and timely, or
- The DOL did not give due consideration to the views of the private school official.

If a complaint is filed:

- The private school official must provide the basis of the complaint of noncompliance, and
- The DOL must forward the appropriate documentation to the CDE.

If the private school official is dissatisfied with the decision of the CDE, he/she may appeal the decision to the U.S. Department of Education.

II. Child Find

A. The DOL shall undertake the following child-find activities with regard to private school children ages five (5) to twenty-one (21):

- Consult with representatives of private school children with disabilities (including private school administrators, teachers, parents, and students) regarding the child-find process, including, but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.
- Distribute materials to representatives of private school children with disabilities (including private school administrators, teachers, parents and students) regarding issues, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.

B. The proportionate share of Federal funds described in section below shall not be used for child-find activities.

C. The DOL shall ensure child-find activities undertaken for private school students are

comparable to activities undertaken for children with disabilities ages five (5) to twenty-one (21) with disabilities in public schools. Child-find activities shall include consultation with representatives (staff and parents) of private school children five (5) to twenty-one (21) with disabilities regarding how to carry out child-find activities.

III. Special Education Referral

- Students must be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.
- If after considering and, where appropriate, utilizing general education resources, representatives of private school children with disabilities (including private school administrators, teachers, and parents) determine that a private school child may be eligible for special education services, a referral shall be directed to the Director of Special Education of the DOL.

IV. Initial Individual Education Program (IEP) Team Meeting

- A. Upon identifying and locating a child suspected of being a child with a disability, the DOL shall conduct an appropriate and timely initial assessment of the child's needs, if a current assessment has not been performed by the District of Residence.
- B. The DOL shall make the eligibility decision in accordance with applicable state and federal laws and regulations.
- C. If the parents of a private school child with a disability are clearly not interested in enrolling their child in public school, and if the child is eligible for special education and related services as a child with a disability, the DOL shall develop an Individual Service Plan ("ISP") in accordance with this policy and federal and state laws and regulations.

In order to ensure that the parents' intention are clear, the District of Residence shall request that the parents sign the following statement on a form entitled *Certification of Parent's Decision Not to Enroll in Public School*: "Parents of _____ hereby certify that we are not interested in enrolling our child, _____, in the District. We are not interested in the development of an IEP for our child, the District's offer of a free appropriate public education, and are only interested in an ISP from the DOL, the school district where the private school in which we are unilaterally placing our child is located. We have received the North Santa Cruz County SELPA Notice of

Parents' Rights, and we understand the notice.”

- E. If the parents of a private school child with a disability are interested in enrolling their child in public school, or are unsure of their intentions, the DOR IEP team shall develop an IEP for the child.
 - F. If the parents of a private school child with a disability agree with and consent to the IEP developed by the DOR IEP team, the IEP shall be implemented by the DOR without undue delay following the IEP team meeting.
 - G. If the parents of a private school child with a disability agree with, but decline the IEP developed by the IEP team, the IEP team shall:
 - Ask the parents to indicate on the parent consent form that they wish to decline the initiation of special education services. Check the appropriate box on the IEP “Student enrolled in private school by their parents. Refer to Individual Service Plan if appropriate.”
 - H. The DOR shall not be required to pay for the cost of education, including special education and related services of a student with a disability enrolled at a private school or facility if the DOR made a free appropriate public education available to the student, and the parent of the child elected to place the child in the private school or facility. (EC 56174)
 - I. A private school student with a disability may receive a different amount of services than a student with disabilities enrolled in a public school receives pursuant to paragraph (2) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations. No private school student with disabilities is entitled to any amount of services the student would receive if enrolled in a public school pursuant to paragraph (3) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations.
- V. Child Count
- A. The DOL shall determine the manner in which to conduct the annual count of private school children with disabilities.
 - The child count shall be conducted for attendance on December 1 of the prior year. The child count shall be conducted by mail and follow-up phone or in-person contact as needed.

- The child count shall be used to determine the amount that the DOL must spend on providing special education and related services to private school children with disabilities in the fiscal year following the date on which the child count is conducted.

VI. Individual Services Plan (ISP)

- A. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education services that the child would receive if enrolled in public school.
- B. Pursuant to federal and State law and regulations, the DOL shall spend a proportionate share of federal funds to provide special education and related services to private school children with disabilities ages three (3) to twenty-one (21) eligible for special education services. Decisions about the services that shall be provided to private school children with disabilities are made after consulting, in a timely and meaningful way, with representatives of private school children with disabilities
- C. Each private school child with a disability who has been designated to receive services under this policy shall have an ISP that describes special education and related services that the DOL shall provide to the child as determined by the DOL under this policy. The DOL shall ensure that a representative of the private school attends each meeting involving the individual child's ISP. If the private school representative is unable to attend, the DOL shall use other methods to ensure participation by the private school, including individual or conference telephone calls.
- D. The services offered in this policy shall be reviewed by the DOL at least annually by means of a survey initiated by each DOL and/or consultation with representatives of private school children with disabilities ages three (3) to twenty-one (21).
- E. The services provided pursuant to the policy may be provided at a private school, including a religious school, to the extent consistent with law. The location of the services shall be set out in the student's ISP. Service providers shall be hired and supervised by DOL. The DOL shall also control all property, equipment, and supplies allocated to benefit private school students with disabilities. However, the DOL shall not use its proportionate share of federal funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.

VII. IEP Meetings/Assessments after the Initial IEP Team Meeting

All children with disabilities eligible for special education who reside in the District of Residence are entitled to receive a FAPE from the District of Residence if they are enrolled in public school. One year after an eligible private school child's initial IEP team meeting and annually thereafter, the District of Residence shall notify the child's parents in writing that the District of Residence:

- Continues to offer a FAPE in accordance with federal and state laws and regulations;
- Is ready, willing, and able to schedule an IEP team meeting for their child in order to offer the child a FAPE, subject to assessment, if appropriate, if the parents express an interest in enrolling their child in public school.

Unless the parent is interested in enrolling in the DOR and wants to pursue FAPE, the parents shall be requested to send the document back to the District of Residence and indicate their agreement with one of the following statements:

A. I understand that the District of Residence continues to offer my child a free appropriate public education (FAPE) (including appropriate special education and related services) if he/she is enrolled in public school. I continue to unilaterally place my child in a private school; and I would like my child to continue to receive services pursuant to his/her ISP. I am not interested in enrolling my child in public school. (In this case, the District of Residence will forward within 3 business days a copy of this document to the DOL.)

Or

B. I am interested in enrolling my child in public school. I would like to schedule an IEP team meeting for my child. Please call me at: [parent inserts phone number] in order to schedule the IEP meeting.

Notwithstanding paragraph VII, A above, the District of Residence shall convene an IEP team meeting at least every three years in order to determine continuing eligibility for special education.

VIII. Private Preschool Students with Disabilities (Age 3.0 - 5.0)

A. If the IEP team determines that a preschool child with a disability is eligible for special education services and develops an IEP offering only related services (i.e., placement is not a component of FAPE), the eligible preschool student shall be

considered a public school student. The District of Residence shall provide the eligible preschool child with a disability with a FAPE in accordance with federal and state laws and regulations.

- B. If An IEP team determines that a preschool child with a disability is eligible for special education services and develops an IEP offering placement and related services; and

The parent agrees with the IEP developed by the IEP team, but declines public preschool placement in order to unilaterally enroll his/her child in a private preschool, then the eligible preschool child with a disability shall be considered a unilaterally placed private school student. In such case, the DOL shall offer an ISP for the student.

IX. Dispute Resolution

- A. When FAPE is not at issue, special education due process procedures are not available to parents for resolving disagreements about the services provided to private school children unilaterally placed by their parents.
- B. No District of Location or District of Residence is required to pay for the cost of educating a child with a disability at a private school (including special education and related services) if: (1) the District of Residence made a FAPE available to the child, and (2) the parents voluntarily elected to place their child in a private school.
- C. Disputes regarding whether the District of Residence made a FAPE available to the child (as well as the initial location, identification, and assessment of the parentally placed private school child with disabilities by the District of Location and/or the District of Residence, as appropriate) may be resolved pursuant to local policies and procedures and/or by filing a request for a due process hearing with the Office of Administrative Hearings.
- D. Disputes regarding the DOL's policy regarding *Parentally-Placed Private School Students with Disabilities* may be resolved pursuant to local policies and procedures, and/or by filing a complaint with the California Department of Education pursuant to Title 5 of the California Code of Regulations, section 4600 et seq.

Legal References:

UNITED STATES CODE, TITLE 20 Section 1412(a)(10) (A)

Revised and Adopted January 24, 2013

DETERMINING PROPORTIONATE SHARE OF FEDERAL FUNDS

The proportionate share of federal funds that must be expended by each LEA is calculated annually based upon the percentage of all children with disabilities within the district, ages 3 through 21 years, enrolled in elementary and secondary schools. These funds are restricted to services provided to private schools in supporting students who have ISPs. Funds not expended in a fiscal year can be carried over into the next fiscal year. (20 U.S.C. § 1412(a)(10)(A))

The chart below details how the proportionate share is calculated.

Line	Eligible Children
1	Number of eligible children with disabilities in public school in the LEA (from previous year's CASEMIS (December student count))
2	Number of parentally-placed eligible children with disabilities in private elementary and secondary schools located within the LEA (CASEMIS Plan Type 20 or 70; ages 6-21 from previous year's CASEMIS December student count)
3	Total number of eligible children (line 1 plus line 2)
4	Federal Local Assistance funds (611 Grant) allocated to LEA
	Calculation of Proportionate Share
5	Average allocation per eligible child (line 4 divided by line 3)
6	Amount to be expended on parentally-placed private school children (line 5 multiplied by line 2)

Tracking Expenditures

Each LEA is responsible for tracking its expenditures for serving students enrolled in private schools. These expenditure reports are collected at the SELPA level and must be submitted to the state as part of the annual expenditure report for federal IDEA funds.

The following expenses shall be used in calculating the proportionate share of federal funds for students with disabilities in private schools:

- Direct staff costs, i.e., salary and benefits, for those staff providing consultation and direct services for students with disabilities in private schools.
- Mileage reimbursement for staff to and from the private school for provision of services.
- Cost of materials, e.g., consumables, copying
- Costs of staff development programs provided specifically for private school personnel.
- Transportation costs, i.e., bus expenses or mileage reimbursement to parent to transport child to receive the special education or related services.

The SELPA Office will calculate the SELPA-wide proportionate share and distribute to the member districts on an annual basis.

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools

Revised April 2011

Regulations for Part B of the Individuals with Disabilities Education Act (IDEA) were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. Since publication of the regulations, the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education (Department) has received requests for clarification of some of these regulations. This is one of a series of question and answer (Q&A) documents prepared by OSERS to address some of the most important issues raised by requests for clarification on a variety of high-interest topics. Each Q&A document will be updated to add new questions and answers as important issues arise or to amend existing questions and answers as needed.

OSERS issues this Q&A document to provide State educational agencies (SEAs), local educational agencies (LEAs), parents, advocacy organizations, and other interested parties with information regarding the requirements for serving children with disabilities placed by their parents in private schools. This Q&A document represents the Department's current thinking on this topic. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations.

The IDEA and its implementing regulations contain a number of significant changes for parentally placed private school children with disabilities. Section 612(a)(10)(A) of the IDEA and 34 CFR §§300.130 through 300.144 now require that the LEA, after timely and meaningful consultation with private school representatives, conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools *located within the LEA* regardless of where those students *live*. These requirements make clear that the obligation to spend a proportionate amount of IDEA Part B funds to provide services to children with disabilities enrolled by their parents in private schools now refers to children enrolled by their parents in private elementary schools and secondary schools “in the school district served by a local educational agency.” Other key changes relate to the consultation process, calculation of the proportionate share, and standards applicable to personnel providing equitable services.

This Q&A document supersedes the Department's guidance, entitled *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools* issued in March 2006 and January 2007 and includes additional topics that have arisen as the field has implemented the regulations. Some of the new questions reflect recent policy letters that have been issued, while others address common questions that OSEP receives. New topics include:

- Location of Services and Transportation—addressing how an LEA determines where equitable services are provided and whether transportation is required.

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools
PAGE 2

- Property, Equipment, and Supplies—addressing whether Part B funds for equitable services may be used to place equipment and supplies in a private school or be used for repairs, minor remodeling, or construction of private school facilities.
- Out-of-State Children with Disabilities—addressing the responsibility for determining and paying for services provided to out-of-State parentally placed private school children with disabilities.
- Home-Schooled Children with Disabilities—addressing child find and services for children with disabilities who are home-schooled.
- Children in For-Profit Private Schools—addressing whether children enrolled in a for profit private school are counted in determining the proportionate share and whether they are eligible to receive equitable services.

In addition to these new topics, questions have been added to address the consultation process, response to intervention (RTI), the process for developing a services plan, the difference between a services plan and an individualized education program (IEP), child find, and child count. Generally, the questions, and corresponding answers, presented in this Q&A document required interpretation of the IDEA and its implementing regulations and the answers are not simply a restatement of the statutory or regulatory requirements. The responses presented in this document generally are informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented and are not legally binding. The Q&As in this document are not intended to be a replacement for careful study of the IDEA and its implementing regulations. The IDEA, its implementing regulations, and other important documents related to the IDEA and the regulations are found at <http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C>.

If you are interested in commenting on this guidance, please e-mail your comments to OSERSguidancecomments@ed.gov and include Private Schools in the subject of your e-mail or write us at the following address: Ruth Ryder, U.S. Department of Education, Potomac Center Plaza, 550 12th Street, S.W., room 4108, Washington, DC 20202.

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools
Table of Contents

A. Consultation with Private School Representatives and Representatives of Parents of Parentally Placed Private School Children With Disabilities Page 8

A-1. What is consultation?

A-2. What must the consultation process include?

A-3. What records on consultation must an LEA maintain?

A-4. How can the consultation process be carried out effectively? Are there any consultation models available?

B. Child Find and Individual Evaluations Page 11

B-1. Which LEA is responsible for conducting child find for parentally placed private school children?

B-2. What are the LEA's responsibilities for identifying children with disabilities placed by their parents in private schools?

B-3. May an LEA require a private school to implement a response to intervention (RTI) process before evaluating parentally placed private school children?

B-4. Is it possible for a parent to request evaluations from the LEA where the private school is located as well as the district where the child resides?

B-5. Does the LEA where the private school is located have an obligation to make an offer of a free appropriate public education (FAPE)?

B-6. Why is it important to identify the number of parentally placed private school children with disabilities located in the LEA where the private school is located?

B-7. What specific child count information must the LEA maintain and report to the SEA?

B-8. What are the LEA's responsibilities for reevaluations of parentally placed children?

B-9. What is the difference between child find under 34 CFR §§300.111 and 300.131?

B-10. May amounts expended for child find, including individual evaluations, be deducted from the required amount of Federal funds to be expended on services for parentally placed private school children with disabilities?

B-11. In conducting the individual evaluations of children suspected of having disabilities who Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools are enrolled in private schools by their parents, may an LEA exclude children suspected of having certain disabilities, such as those with specific learning disabilities?

B-12. If the LEA where the private elementary or secondary school is located conducts an individual evaluation on a child and the parents disagree with the evaluation and wish to have an independent educational evaluation (IEE) conducted, to which LEA must the parents bring their request--the LEA where the private school is located, or the LEA where the child resides?

C. Equitable Services Page 17

C-1. What is the definition of the term “equitable services”?

C-2. Who provides equitable services to parentally placed private school children with disabilities?

D. Provision of Services Page 19

D-1. What is the process for making decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities?

D-2. Are there any particular kinds of services or specified amounts of services that must be provided to parentally placed private school children with disabilities under Part B of the IDEA?

D-3. May an LEA provide services to parentally placed private school children that are in addition to the services provided pursuant to the Federal equitable participation requirements and that are covered by the Federal proportionate share?

D-4. Must the proportionate amount of Part B funds be used only for direct services to parentally placed private school children with disabilities? Is it permissible to use funds for this population on other services, such as consultative services, materials, equipment, or training?

E. Services Plans Page 22

E-1. How often must a services plan be updated?

E-2. Does the parent of a parentally placed private school child have the opportunity to participate in the development of a services plan?

E-3. What is the difference between an individualized education program (IEP) and a services

plan?

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools

E-4. What is the process for developing a services plan for a parentally placed private school child with a disability?

F. Location of Services and Transportation Page 24

F-1. Section 300.139(a) of the Part B regulations states that services to parentally placed private school children with disabilities may be provided on the premises of private, including religious, schools to the extent consistent with law. How is “the extent consistent with law” determined?

F-2. How does an LEA determine the location where services will be provided to parentally placed private school children with disabilities?

F-3. Must an LEA provide transportation in order for a child to benefit from or participate in the services provided under the private school provisions?

G. Highly Qualified Teachers (HQTs) in Private Schools Page 26

G-1. Do the HQT provisions in IDEA apply to private school teachers?

G-2. If an LEA sends a special education teacher (employed by the LEA) to a private school to provide special education and related services to a child, must that teacher meet the HQT requirements in IDEA?

G-3. May States exceed the IDEA’s requirements and require teachers in private schools to hold certain credentials or certifications?

H. Expenditures Page 27

H-1. Is the proportionate share that an LEA must expend to provide equitable services to children with disabilities placed by their parents in private schools different from the share an LEA would have been required to spend prior to the 2004 IDEA reauthorization?

H-2. Which children must an LEA count in order to calculate the proportionate share?

H-3. May an LEA expend more than the proportionate share of Part B funds on children with disabilities placed by their parents in private schools?

H-4. If an LEA does not expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in a private school that closes, what must the LEA do

with those unexpended funds?

H-5: If an LEA does not expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in private schools by the end of the carry-over period, may the LEA return the unexpended funds to the SEA to be spent by the SEA or reallocated to another LEA?

H-6. How can the public find out the amount an LEA must expend to meet its proportionate share of Part B funds?

H-7. Will the Federal and State allocation of Part B funds have to be adjusted to include parentally placed private school children with disabilities receiving equitable services?

H-8. How are the “Maintenance of Effort” requirements affected when equitable services are no longer provided with State and local funds to children with disabilities placed by their parents in private schools? How are the “Maintenance of Effort” requirements affected for an LEA that only used State and local funds in previous years to provide equitable participation to children with disabilities placed by their parents in a private school?

H-9. May an LEA include administrative costs to meet the requirement to spend a proportionate share of Part B funds on children with disabilities placed by their parents in private schools?

H-10. May an LEA use Part B funds that are required to be expended on equitable services to make payments directly to a private school?

H-11. Who is required to monitor an LEA’s expenditures of Part B funds to meet the requirements for equitable services?

H-12. Must children whose parents decline special education and related services be included in a school district’s proportionate share calculation?

I. Property, Equipment, and Supplies Page 34

I-1. May a public agency place equipment and supplies for equitable services in a private school?

I-2. May Part B funds for equitable services be used for repairs, minor remodeling, or construction of private school facilities?

J. Out-of-State Children with Disabilities Page 35

J-1. Must the LEA where the private elementary schools and secondary schools are located conduct child find activities for parentally placed private school children who reside

outside the state?

J-2. Who is responsible for determining and paying for services provided to out-of-State parentally placed private school children with disabilities?

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools

J-3. May an LEA require another LEA to pay for the services of a parentally placed private school child with a disability from another State?

J-4. When making a determination regarding the services that an LEA will provide to children with disabilities placed by their parents in private schools, could an LEA decide to only provide services to students from their LEA or their State?

K. Home-Schooled Children with Disabilities Page 37

K-1. Which LEA is responsible for conducting child find for children who are homeschooled?

K-2. Are home-schooled children considered parentally placed private school children?

K-3. If a home-schooled child enrolled in the public school for the purpose of taking some academic courses was identified as having a disability, would the child be treated as a parentally placed private school child or treated as a public school child?

L. Due Process Page 38

L-1. Under what circumstances may a parent file a due process complaint under the private school provisions?

M. State Complaints Page 39

M-1. Do private school officials have the right to file a complaint under the State complaint provisions in 34 CFR §§300.136 and 300.140?

M-2. If the parent of a parentally placed private school child with a disability files a State complaint alleging that the services identified in the child's services plan were not provided, is it permissible for the SEA to resolve the complaint by requiring the LEA to provide compensatory services? How would the provision of these services affect the calculation of the expenditures to meet the required proportionate share?

N. Preschool Children Page 41

N-1. What obligation, if any, do districts have to serve three through five-year-old children who are parentally placed in private preschools?

O. Children in For-Profit Private Schools Page 43

O-1. Are children enrolled in a for-profit private school counted for the purpose of determining the proportionate share and eligible to receive equitable services?

Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools**A. Consultation with Private School Representatives and Representatives of Parents of Parentally Placed Private School Children With Disabilities**

Authority: The requirements for consultation are found in 34 CFR §300.134.

Question A-1: What is consultation?

Answer: As used in the regulations, consultation is a mandatory process that involves discussions between the LEA, private school representatives, and representatives of parents of parentally placed private school children with disabilities on key issues relating to the equitable participation of eligible private school children with disabilities in Federally funded special education and related services. (See more on the provision of equitable services in Parts C and D of these questions and answers.) Each LEA (or, if appropriate, an SEA) must consult, in a timely and meaningful way, with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for parentally placed private school children. Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered by the LEA before the LEA makes any decision that has an impact on services to parentally placed private school children with disabilities. Timeliness is critical to effective consultation and requires collaboration between the LEA and private school officials in developing a timeline and selecting dates for consultation. Successful consultation establishes positive and productive working relationships that make planning easier and ensure that the services provided meet the needs of eligible parentally placed private school children with disabilities.

A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation, as such an offer does not meet the basic requirements of the consultation process. Only after discussing key issues relating to the provision of special education and related services with all representatives may the LEA make its final decisions with respect to the services to be provided to eligible private school children with disabilities.

Question A-2: What must the consultation process include?

Answer: Apart from specifying certain topics that must be addressed during consultation, the regulations offer LEAs and private schools a great deal of flexibility in conducting the consultation process. However, in accordance with 34 CFR §300.134, discussion between public school and private school officials must address--

- The child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- The determination of the proportionate share of Federal funds available to serve parentally placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated;

- How the consultation process among representatives of the agency, the private schools, and the parents of parentally placed private school children will take place, including how the process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;
- How, where, and by whom special education and related services will be provided, including a discussion of types of services—including direct services and alternate service-delivery mechanisms, as well as how the services will be apportioned if funds are insufficient to serve all children--and how and when decisions regarding services will be made; and
- How, if the LEA representatives disagree with the views of the private school officials on the provision of services or the types of services whether provided directly or through a contract, the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to adopt the recommendations of the private school officials.

Question A-3: What records on consultation must an LEA maintain?

Answer: When timely and meaningful consultation has occurred, the LEA must maintain documentation that the consultation has occurred, including a written affirmation signed by the representatives of the participating private schools, as required by 34 CFR §300.135. Some have asked if signing an attendance sheet at a meeting is all that is needed to document adequately that timely and meaningful consultation has occurred. Though these attendance sheets provide an accounting of who has attended meetings, the sheets themselves do not provide evidence that ongoing consultation has occurred. Therefore, the written affirmation signed by the representatives of the participating private schools should reflect that those officials have indeed participated in timely and meaningful consultation that has continued throughout the school year. If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

Question A-4: How can the consultation process be carried out effectively? Are there any consultation models available?

Answer: There are a number of ways to carry out the consultation process. As such, the Department does not endorse any specific consultation model. Examples of consultation practices that have proven to work for LEAs include establishing a private school working group to serve as the vehicle for ongoing consultation. In selecting members for this group, LEAs may contact larger private school organizations such as the Catholic Schools Office in the local diocese or the Board of Jewish Education for the region. Groups such as these can help facilitate communication between their member schools and the LEAs in which they are located. Also, establishing a timeline for consultation can help ensure that timely and meaningful consultation occurs throughout the school year. The timeline can include meeting dates and times as well as topics to be discussed.

In addition, in February, 2008 the Office of Non-Public Education published a booklet entitled *The Individuals With Disabilities Education Act (IDEA): Provisions Related to Children With*

Disabilities Enrolled by Their Parents in Private Schools, which explains the provisions related to, and benefits available to, children with disabilities who are enrolled by their parents in private schools when a free appropriate public education (FAPE) is not at issue. A copy of this booklet can be found at: <http://www2.ed.gov/admins/lead/speced/privateschools/index.html>.

B. Child Find and Individual Evaluations

Authority: The requirements for child find for parentally placed private school children with disabilities are found in 34 CFR §300.131.

Question B-1: Which LEA is responsible for conducting child find for parentally placed private school children?

Answer: Under 34 CFR §300.131, the LEA where the private school is located is responsible for conducting child find for parentally placed private school children. The child find requirements for parentally placed children make clear that the LEA, after timely and meaningful consultation with private school representatives, must conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools *located in the LEA*. (Under the prior provisions of the IDEA, the responsibility to conduct child find for parentally placed private school children rested with *the LEA in which the children resided*.)

Question B-2: What are the LEA's responsibilities for identifying children with disabilities placed by their parents in private schools?

Answer: Under 34 CFR §300.131, the LEA is responsible for locating, identifying, and evaluating all children with disabilities who are enrolled by their parents in private, including religious, elementary schools, as defined in 34 CFR §300.13, and secondary schools, as defined in 34 CFR §300.36, located in the LEA. The LEA, in conducting child find for parentally placed private school children with disabilities, must undertake activities similar to activities undertaken for the agency's public school children.

The child find process must be completed in a time period comparable to that for students attending public schools in the LEA. The LEA where the private elementary or secondary school is located has a number of options as to how it meets its child find responsibilities. For example, the LEA may assume the responsibility itself, contract with another public agency (including the public agency where the child resides), or make other arrangements by contracting with a third party to conduct child find activities.

Child find is an ongoing process. Therefore, if a child who enters a private school without having been previously identified as a child with a disability is suspected of having a disability during the school year, the LEA where the private school is located is responsible for ensuring such a child is identified, located, and evaluated. In addition, it is possible that a child who was previously evaluated and determined not eligible for special education and related services by

another LEA, may in fact be determined eligible for special education and related services at a later time through the child find process conducted by the LEA where the private school is located.

Question B-3: May an LEA require a private school to implement a response to intervention (RTI) process before evaluating parentally placed private school children?

Answer: No. The IDEA and its implementing regulations in 34 CFR §§300.301– 300.311 establish requirements with which LEAs must comply when conducting an initial evaluation to determine if a child qualifies as a child with a disability under Part B; these requirements do not apply to private schools. IDEA requires States to adopt criteria for determining whether a child has a specific learning disability, as defined in 34 CFR §300.8(c)(10), and these criteria must permit, among other things, the use of a process based on the child’s response to scientific, research-based intervention (known as RTI). 34 CFR §300.307(a)(2). Thus, although IDEA permits the use of RTI in evaluating children suspected of having learning disabilities, it does not require LEAs to use RTI. Even if a State’s criteria permit LEAs to use RTI in evaluating children suspected of having learning disabilities, IDEA does not require an LEA to use RTI for parentally placed children attending private schools located in its jurisdiction. It would be inconsistent with the IDEA evaluation provisions in 34 CFR §§ 300.301-300.311 for an LEA to delay the initial evaluation because a private school has not implemented an RTI process with a child suspected of having learning disabilities and has not reported the results of that process to the LEA.

Question B-4: Is it possible for a parent to request evaluations from the LEA where the private school is located as well as the district where the child resides?

Answer: The Department recognizes that there could be times when parents request that their parentally placed child be evaluated by different LEAs if the child is attending a private school that is not in the LEA in which the child resides. For example, because most States generally assign the responsibility for making FAPE available to the LEA in which the child’s parents reside, and because that could be an LEA that is different from the LEA in which the child’s private school is located, parents could ask two different LEAs to evaluate their child for different purposes at the same time. The Department, however, does not encourage this practice. Note that a new requirement in 34 CFR §300.622(b)(3) requires parental consent for the release of information between LEAs about parentally placed private school children. Therefore, as a practical matter, one LEA may not know that a parent also requested an evaluation from another LEA. However, the Department does not believe that the child’s best interests would be served if parents request evaluations of their child by the resident LEA and the LEA where the private school is located, even though these evaluations are conducted for different purposes. Subjecting a child to repeated testing by separate LEAs in close proximity of time may not be the most effective or desirable way to ensure that the evaluations are meaningful measures of whether a child has a disability, or of obtaining an appropriate assessment of the child’s educational needs.

Although the Department discourages parents from requesting evaluations from two LEAs, if the parent chooses to request evaluations from the LEA responsible for providing the child FAPE and from another LEA that is responsible for considering the child for the provision of equitable services, both LEAs are required to conduct an evaluation.

Question B-5: Does the LEA where the private school is located have an obligation to make an offer of a free appropriate public education (FAPE)?

Answer: The LEA where a child attends private school is responsible for ensuring equitable participation. If a parentally placed private school child also resides in that LEA, then the LEA would be responsible for making FAPE available to the child, unless the parent makes clear his or her intent to keep the child enrolled in the private elementary or secondary school located in the LEA. If a parentally placed private school child resides in a different LEA, the district in which the private elementary or secondary school is located is not responsible for making FAPE available to that child, but the LEA of the child's residence would be responsible for making FAPE available to that child..

If a determination is made through the child find process by the LEA where the private school is located that a child needs special education and related services and a parent makes clear his or her intent to keep the child enrolled in the private elementary or secondary school located in another LEA, the LEA where the child resides is not required to make FAPE available to the child. However, if the parents choose to accept the offer of FAPE and enroll the child in a public school, then the LEA where the child resides is obligated to make FAPE available to the child.

Question B-6: Why is it important to identify the number of parentally placed private school children with disabilities located in the LEA where the private school is located?

Answer: An accurate count of the number of eligible private school children with disabilities enrolled by their parents in private schools located in the LEA is needed to calculate the proportionate share of Part B funds that the LEA must expend annually for services for parentally placed private school children with disabilities.

Question B-7: What specific child count information must the LEA maintain and report to the SEA?

Answer: The regulations in 34 CFR §300.132(c) require the LEA to maintain in its records and provide to the SEA the number of parentally placed private school children evaluated, the number of parentally placed private school children determined to be children with disabilities under Part B of the IDEA, and the number of children who are provided equitable services.

Question B-8: What are the LEA's responsibilities for reevaluations of parentally placed children?

Answer: The LEA where the private elementary school or secondary school is located is responsible for conducting reevaluations of children with disabilities enrolled by their parents in

the private elementary schools and secondary schools located in the LEA. Under 34 CFR §300.303, an LEA must ensure that a reevaluation of each child with a disability is conducted if (1) the LEA determines that the child's educational or related services needs, in light of the child's academic achievement and functional performance, warrant a reevaluation; or (2) the child's parent or teacher requests a reevaluation. A reevaluation may occur not more than once a year, unless the parent and LEA agree otherwise; and must occur at least once every three years, unless the parent and LEA agree that a reevaluation is unnecessary.

Question B-9: What is the difference between child find under 34 CFR §§300.111 and 300.131?

Answer: The child find provision in 34 CFR §300.111 addresses the responsibility of a State to conduct child find for all children with disabilities residing in the State, including children with disabilities attending private schools. It ensures that all children with disabilities residing in the State are identified, located, and evaluated. Section 300.111, which applies to States, is much broader in scope than §300.131.

The child find provision in 34 CFR §300.131 addresses the responsibility of the LEA where the private school is located to conduct child find for all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the LEA. This provision addresses which children enrolled in private elementary schools and secondary schools by their parents are eligible to receive services under the IDEA.

Question B-10: May amounts expended for child find, including individual evaluations, be deducted from the required amount of Federal funds to be expended on services for parentally placed private school children with disabilities?

Answer: No. There is a distinction under the IDEA between the obligation to conduct child find activities, including individual evaluations, for parentally placed private school children with disabilities, and the obligation to use an amount of funds equal to a proportionate amount of an LEA's subgrant to provide special education and related services to parentally placed private school children with disabilities. The obligation to conduct child find, including individual evaluations, exists independently from the obligation to provide equitable services. The costs of child find activities, such as evaluations, may not be considered in determining whether the LEA has spent an appropriate amount on providing special education and related services to parentally placed private school children with disabilities. See 34 CFR §300.131(d).

Question B-11: In conducting the individual evaluations of children suspected of having disabilities who are enrolled in private schools by their parents, may an LEA exclude children suspected of having certain disabilities, such as those with specific learning disabilities?

Answer: No. The LEA where private elementary schools and secondary schools are located must identify and evaluate all children enrolled in those schools who are suspected of having a disability as defined under 34 CFR §300.8. LEAs may not exclude children suspected of having certain disabilities, such as those with specific learning disabilities, from their child find

activities. The Department recommends that LEAs consult with officials from private elementary schools and secondary schools on how best to implement the State's evaluation criteria for identifying children with specific learning disabilities enrolled in private schools by their parents.

Question B-12: If the LEA where the private elementary or secondary school is located conducts an individual evaluation on a child and the parents disagree with the evaluation and wish to have an independent educational evaluation (IEE) conducted, to which LEA must the parents bring their request--the LEA where the private school is located, or the LEA where the child resides?

Answer: Parents would request an IEE from the LEA that conducted the evaluation with which the parents disagree.

C. Equitable Services

Authority: The requirements for equitable services are found in 34 CFR §§300.132, 300.137, and 300.138.

Question C-1: What is the definition of the term “equitable services”?

Answer: Equitable services are services provided to parentally placed private school children with disabilities in accordance with the provisions in the IDEA and its implementing regulations in 34 CFR §§300.130 through 300.144. Under the IDEA, LEAs have an obligation to provide parentally placed private school children with disabilities an opportunity for equitable participation in the services funded with Federal Part B funds that the LEA has determined, after consultation, to make available to its population of parentally placed private school children with disabilities. The amount of Part B funds available for these services is based on the proportionate share calculation, which is discussed in the Expenditures section of this Document. The consultation process is important to ensure the provision of equitable services. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities is determined during the consultation process. See 34 CFR §300.134(d).

Equitable services for a parentally placed private school child with a disability must be provided in accordance with a services plan. A services plan must describe the specific special education and related services that will be provided to a parentally placed private school child with disabilities designated to receive services. See 34 CFR §300.138(b). The regulations in 34 CFR §300.137(a) explicitly provide that children with disabilities enrolled by their parents in private schools do not have an individual right to receive some or all of the special education and related services they would receive if enrolled in the public schools.

Question C-2: Who provides equitable services to parentally placed private school children with disabilities?

Answer: The regulations in 34 CFR §300.138(c) clarify that equitable services must be provided by employees of a public agency; or through contract by the public agency with an individual, association, agency, organization, or other entity. An LEA may use Part B funds to make public school personnel available in non-public facilities to the extent necessary to provide equitable services for private school children with disabilities and if those services are not normally provided by the private school. See 34 CFR §300.142(a). An LEA may use Part B funds to pay for the services of an employee of a private school to provide equitable services if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control. See 34 CFR §300.142(b).

D. Provision of Services

Authority: The requirements for provision of services are found in 34 CFR §§300.130, 300.132, 300.137(a), and 300.138.

Question D-1: What is the process for making decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities?

Answer: Timely and meaningful consultation must occur before any decisions are made that will affect the participation of parentally placed children in Part B programs. Thus, decisions about services may not be made in advance or in the absence of timely and meaningful consultation. After timely and meaningful consultation has occurred with private schools representatives and representatives of parents of parentally placed private school children with disabilities, the LEA is responsible for making final decisions about all aspects of the services to be provided to parentally placed private school children with disabilities. See 34 CFR §300.137(b). If the LEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the LEA must provide to the private school officials a written explanation of the reasons why the LEA chose not to accept the recommendations of the private school officials. See 34 CFR §300.134(e).

Question D-2: Are there any particular kinds of services or specified amounts of services that must be provided to parentally placed private school children with disabilities under Part B of the IDEA?

Answer: No. Decisions about which services and the amounts of services children with disabilities enrolled by their parents in private schools will receive are made during the consultation process and are based on the needs of the children designated to receive services. These children have no individual entitlement to receive some or all of the special education and related services they would receive if enrolled in a public school. See 34 CFR §300.137(a).

Question D-3: May an LEA provide services to parentally placed private school children that are in addition to the services provided pursuant to the Federal equitable participation requirements and that are covered by the Federal proportionate share?

Answer: Yes. The IDEA does not prohibit a State or LEA from using additional State or local funds to provide special education or related services to parentally placed private school children with disabilities that are in addition to the services required in 34 CFR §§300.130 through 300.144, consistent with State law or local policy. Additionally, as long as the LEA meets all the other requirements of the IDEA, including providing FAPE to children with disabilities, it is permissible for the LEA to spend more than the minimum amount of Part B funds on providing services to children with disabilities placed by their parents in private schools.

Question D-4: Must the proportionate amount of Part B funds be used only for direct services to parentally placed private school children with disabilities? Is it permissible to use funds for this population on other services, such as consultative services, materials, equipment, or training?

Answer: Under 34 CFR §300.133(a), each LEA must spend a proportionate amount of Part B funds on providing special education and related services (including direct services) to parentally placed private school children with disabilities. The regulations specify that the LEA makes the final decisions about the services to be provided to eligible parentally placed private school children with disabilities, based in part on input provided through the consultation process by appropriate private school representatives and representatives of parents of parentally placed private school children with disabilities. See 34 CFR §300.137(b)(2). These decisions cannot be made in advance of or in the absence of timely and meaningful consultation with private school representatives and with representatives of parents of parentally placed private school children with disabilities.

IDEA does not require an LEA to spend the proportionate share only for direct services. Rather, through the consultation process described in 34 CFR §300.134, a determination must be made about how the available amount of funds will be utilized so that the parentally placed private school children with disabilities designated to receive services can benefit from the services offered. Depending on the discussions during the consultation process, local circumstances, and the amount of funds available to expend on services for this population of children, an LEA could determine, after timely and meaningful consultation, that it will provide its population of parentally placed private school children with disabilities with indirect services. See 34 CFR §300.134(d)(1). These services could include consultative services, equipment, or materials for eligible parentally placed children with disabilities or training for private school teachers and other private school personnel. Under 34 CFR §300.138(c)(2), special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

E. Services Plans

Authority: The requirements for services plans are found in 34 CFR §§300.132(b) and 300.138(b).

Question E-1: How often must a services plan be updated?

Answer: The IDEA and its implementing regulations do not specify how often a services plan must be updated. As provided in 34 CFR §300.138(b)(2)(ii), a services plan must, to the extent appropriate, be developed, reviewed, and revised in accordance with the individualized education program (IEP) requirements in 34 CFR §§300.321 through 300.324. The regulations in 34 CFR §300.324(b)(1) require that a child's IEP be reviewed periodically and not less than annually, to determine whether the annual goals for the child are being achieved, and to be revised as appropriate. As such, the Department suggests that a services plan be reviewed periodically, not less than annually, to determine whether the annual goals for the child are being achieved and to be revised as appropriate.

Question E-2: Does the parent of a parentally placed private school child have the opportunity to participate in the development of a services plan?

Answer: Yes. As provided in 34 CFR §300.138(b)(2)(ii), a services plan must, to the extent appropriate, be developed, reviewed, and revised in accordance with the requirements in 34 CFR §§300.321 through 300.324. Therefore, to the extent appropriate, the meeting to develop a services plan should be conducted in accordance with 34 CFR §300.321. Under 34 CFR §300.321(a)(1), the parents of the child are required participants. Given the emphasis on parent involvement in the IDEA, the Department believes that parents should have the opportunity to participate in meetings to review and develop the services plan for their child.

Question E-3: What is the difference between an individualized education program (IEP) and a services plan?

Answer: Children with disabilities enrolled in public schools or who are publicly placed in private schools are entitled to a FAPE and must receive the full range of services under Part B of the IDEA. These services are determined by the child's IEP team and are necessary to meet the child's individual needs and provide FAPE. The IEPs for these children generally will be more comprehensive than services plans developed for parentally placed private school children with disabilities who are designated to receive services. This is because parentally placed children do not have an individual entitlement to any or all of the services that the children would receive if enrolled in a public school. Further, a services plan should reflect only the services offered to a parentally placed private school child with a disability designated to receive services. In addition, a services plan is required to meet the IEP content requirements described in section 614(d) of the IDEA, or, when appropriate, for children aged three through five, the Individualized Family Service Plan (IFSP) requirements described in section 636(d) of the IDEA, to the extent appropriate, and only in relation to the services that are to be provided.

Question E-4: What is the process for developing a services plan for a parentally placed private school child with a disability?

Answer: The LEA must initiate and conduct meetings to develop, review, and revise a services plan for a parentally placed private school child with a disability designated to receive services. The LEA must ensure that a representative of the religious or other private school attends each

meeting. If the representative cannot attend, the LEA must use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls. See 34 CFR §300.137(c). The services plan must, to the extent appropriate, be developed, reviewed, and revised consistent with 34 CFR §§300.321 through 300.324. See 34 CFR §300.138(b)(2)(ii).

F. Location of Services and Transportation

Authority: The requirements for location of services and transportation are found in 34 CFR §300.139.

Question F-1: Section 300.139(a) of the Part B regulations states that services to parentally placed private school children with disabilities may be provided on the premises of private, including religious, schools to the extent consistent with law. How is “to the extent consistent with law” determined?

Answer: The phrase “to the extent consistent with law” is in section 612(a)(10)(A)(i)(III) of the IDEA. The Department interprets this to mean that the provision of services on the premises of a private school must take place in a manner that would not violate the Establishment Clause of the First Amendment of the U.S. Constitution and would not be inconsistent with applicable State constitutions or laws. The Department generally believes that, unless there is a compelling rationale for these services to be provided off-site, LEAs should provide services on-site, at the child’s private school, so as not to unduly disrupt the child’s educational experience.

Question F-2: How does an LEA determine the location where services will be provided to parentally placed private school children with disabilities?

Answer: The location of services is one of the subjects that must be discussed during the consultation process among LEA officials, private school representatives, and representatives of parents of parentally placed private school children with disabilities. See 34 CFR §300.134(d). Under 34 CFR §300.137(b), after the consultation process and giving due consideration to the views of the private school officials, the LEA makes the final decision. See 34 CFR §300.137(b).

Question F-3: Must an LEA provide transportation in order for a child to benefit from or participate in the services provided under the private school provisions?

Answer: The regulations in 34 CFR §300.139(b) require that if necessary for the child to benefit from or participate in the services provided under the private school provisions, an LEA must provide a parentally placed private school child with a disability transportation from the child’s school or the child’s home to a site other than the private school; and from the service site to the private school, or to the child’s home, depending on the timing of the services. The IDEA does not require LEAs to provide transportation from the child’s home to the private school. The LEA may include the cost of the transportation in calculating whether it has spent the proportionate share of Federal Part B funds on providing services to parentally placed private school children with disabilities as required by 34 CFR §300.133.

G. Highly Qualified Teachers (HQTs) in Private Schools

Authority: The requirements for highly qualified teachers and the applicability to private school teachers are found in 34 CFR §§300.18(h) and 300.138(a).

Question G-1: Do the HQT provisions in IDEA apply to private school teachers?

Answer: No. The HQT provisions do not apply to special education teachers hired by private elementary and secondary schools, including private school teachers hired or contracted by LEAs to provide equitable services to parentally placed private school children with disabilities under 34 CFR §300.138.

Question G-2: If an LEA sends a special education teacher (employed by the LEA) to a private school to provide special education and related services to a child, must that teacher meet the HQT requirements in IDEA?

Answer: Yes. Any public elementary or secondary school teacher must meet the HQT requirements.

Question G-3: May States exceed the IDEA's requirements and require teachers in private schools to hold certain credentials or certifications?

Answer: The regulations in 34 CFR §§300.18(h) and 300.138(a) make clear that the IDEA does not require that private school teachers meet the same highly qualified teacher requirements as teachers who are employed by public agencies. The IDEA is silent regarding additional credentials or certifications that a State may require under State law. Therefore, States may exceed the IDEA requirements and require teachers in private schools to hold certain credentials or certifications if consistent with State law. If a State establishes requirements that exceed those required by Part B of the IDEA or the Federal regulations, the State is required by 34 CFR §300.199(a)(2) to identify in writing to the LEAs located in the State and to the Secretary of the U.S. Department of Education (Secretary) that such rule, regulation, or policy is a State imposed requirement that is not required by Part B of the IDEA or the Federal regulations.

H. Expenditures

Authority: The expenditure requirements are found in 34 CFR §300.133.

Question H-1: Is the proportionate share that an LEA must expend to provide equitable services to children with disabilities placed by their parents in private schools different from the share an LEA would have been required to spend prior to the 2004 IDEA reauthorization?

Answer: Yes. The revisions to the IDEA in 2004 made a significant change in the manner in which the proportionate share is calculated. Under the 2004 amendments to the IDEA, the

proportionate share calculation must be based on the total number of children with disabilities who are enrolled in private schools located in the LEA, whether or not the children or their parents reside in the LEA.

More specifically, each LEA must spend the following amounts on providing special education and related services (including direct services) to parentally placed private school children with disabilities:

(1) For children aged three through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the IDEA as the number of private school children with disabilities aged three through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA is to the total number of children with disabilities in its jurisdiction aged three through 21.

(2) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the IDEA as the number of parentally placed private school children with disabilities aged three through five who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the LEA is to the total number of children with disabilities in its jurisdiction aged three through five. Appendix B of the regulations provides an example of how to make this calculation.

Question H-2: Which children must an LEA count in order to calculate the proportionate share?

Answer: Children who have been evaluated and found eligible for special education and related services, not just those children who receive services through an IEP or services plan, should be included in the count to calculate the proportionate share. As discussed in 34 CFR §300.133(a), each LEA must determine the total number of private school children with disabilities who are enrolled by their parents in private elementary schools and secondary schools located in the LEA and the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA.

Question H-3: May an LEA expend more than the proportionate share of Part B funds on children with disabilities placed by their parents in private schools?

Answer: Yes. As referenced in Question D-3, nothing in the IDEA prohibits an LEA from expending more than the proportionate share. Each LEA is required to spend a minimum amount of its subgrant under Part B of the IDEA for children with disabilities placed by their parents in private schools. As long as the LEA meets all the other requirements of the IDEA, including providing FAPE to children with disabilities, it is permissible for an LEA to spend more than the minimum amount of Part B funds on providing services to children with disabilities placed by their parents in private schools. In addition, as provided in 34 CFR §300.133(d), State and local funds may be used to supplement, but not supplant, the LEA's proportionate share of Federal funds required to be expended on children with disabilities placed by their parents in private schools.

Question H-4: If an LEA does not expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in a private school that closes, what must the LEA do with those unexpended funds?

Answer: Under 34 CFR §300.133(a), each LEA is required to spend a minimum amount of its subgrant under Part B of the IDEA on children with disabilities placed by their parents in private elementary and secondary schools. As provided in 34 CFR §300.133(a)(3), if an LEA has not expended all of the proportionate share of its Part B subgrant by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services to children with disabilities placed by their parents in private schools during a carry-over period of one additional year. A reduction in the number of children, for example, when a school closes after the start of the school year, does not excuse the LEA from spending its proportionate share to provide equitable services to children with disabilities placed by their parents in private schools.

Question H-5: If an LEA does not expend the entire proportionate share of Part B funds on children with disabilities placed by their parents in private schools by the end of the carry-over period, may the LEA return the unexpended funds to the SEA to be spent by the SEA or reallocated to another LEA?

Answer: No. If, after the carry-over period, the LEA is unable to expend the entire proportionate share and *assuming the LEA is in compliance with the child find, consultation, and other requirements related to parentally placed private school children with disabilities in 34 CFR §§300.129 through 300.144*, the LEA may use the unexpended funds - at the end of the period during which the funds may be spent on parentally placed private school children - to pay for other allowable Part B expenditures for that same LEA. This situation should be the exception. We emphasize that it is the clear intent of the Act that LEAs spend these funds on providing special education and related services to parentally placed private school children with disabilities, as provided in 34 CFR §§300.129 through 300.144. Therefore, if the LEA is not in compliance with these requirements and has not expended the funds on parentally placed private school children, the LEA must return the funds to the U.S. Department of Education.

The SEA is responsible for ensuring that LEAs are in compliance with these requirements. See 34 CFR §§300.149(a) and 300.600(b)(2). If an LEA has not expended the proportionate share by the end of the carry-over period, the SEA can monitor the LEA to ensure that it is meeting these requirements, including the requirement in 34 CFR §300.135 that the LEA obtain written affirmation signed by representatives of participating private schools that timely and meaningful consultation has occurred. In any event, there is no authority that permits the LEA to return the funds to the SEA to be spent by the SEA or reallocated to another LEA.

Question H-6: How can the public find out the amount an LEA must expend to meet its proportionate share of Part B funds?

Answer: This information should be readily available from the LEA or SEA. As required by 34 CFR §300.134(b), the consultation process must include a determination of the proportionate share of Federal funds available to serve parentally placed private school children with disabilities, including how the proportionate share of funds is calculated.

Question H-7: Will the Federal and State allocation of Part B funds have to be adjusted to include parentally placed private school children with disabilities receiving equitable services?

Answer: Under the Grants to States and Preschool Grants for Children with Disabilities programs, Federal Part B funds are allocated to States, and from States to LEAs, using a statutory formula that takes into consideration the amount of program funds received in a prior year (the base year), along with the most recent population and poverty data (see 34 CFR §§300.703, 300.705, 300.807, and 300.816). Each LEA calculates the proportionate share it must spend on parentally placed private school children with disabilities based on the LEA's subgrant. Because Part B funds are allocated to States and LEAs using a statutory formula that is not based on a child count, the amount of Part B funds allocated to States and LEAs cannot be adjusted based on the number of private school students with disabilities receiving equitable services. Adjustments in State funding could be made depending on each State's laws and funding mechanisms.

Question H-8: How are the "Maintenance of Effort" requirements affected when equitable services are no longer provided with State and local funds to children with disabilities placed by their parents in private schools? How are the "Maintenance of Effort" requirements affected for an LEA that only used State and local funds in previous years to provide equitable participation to children with disabilities placed by their parents in a private school?

Answer: In accordance with the regulations in 34 CFR §300.133(d), State and local funds may supplement, but not supplant, the proportionate share of Federal funds required to be expended for children with disabilities placed by their parents in private schools. This is a new requirement under the IDEA and its implementing regulations. Prior to the reauthorization of the IDEA in 2004, if an LEA spent more than the Federal proportionate share of funds using State and local funds, the LEA was not required to spend any Federal Part B funds on parentally placed private school children. This is no longer permissible.

An LEA that previously used only State and local funds to provide equitable services to children with disabilities placed by their parents in a private school and now uses Federal Part B funds to provide equitable services must meet the maintenance of effort requirements in 34 CFR §300.203. The exceptions to the maintenance of effort requirements in 34 CFR §300.204 do not apply to funds used for equitable participation of parentally placed private school children with disabilities. Therefore, the total or per capita amount of local or State and local funds expended for the education of children with disabilities, including the amount of local or State and local funds previously expended for equitable services to children with disabilities placed by their parents in private schools, would have to be maintained, unless adjustments are permitted under 34 CFR §300.205.

Question H-9: May an LEA include administrative costs to meet the requirement to spend a proportionate share of Part B funds on children with disabilities placed by their parents in private schools?

Answer: No. As stated in 34 CFR §300.133(a), each LEA is required to spend a proportionate share of Federal Part B funds on providing special education and related services to children with disabilities who are enrolled by their parents in private elementary schools and secondary schools in order for the LEA to meet its responsibility for providing equitable services. We interpret the reference to “special education and related services” to mean that administrative costs could not be included in the amount each LEA must spend to meet this requirement. Thus, an LEA may not expend the proportionate share of Federal Part B funds on administrative costs.

Question H-10: May an LEA use Part B funds that are required to be expended on equitable services to make payments directly to a private school?

Answer: No. Part B funds for equitable services may not be paid directly to a private school. Under 34 CFR §300.144(a), a public agency must control and administer the funds used to provide special education and related services to parentally placed private school children with disabilities. Under 34 CFR §300.141, an LEA may not use Part B funds to finance the existing level of instruction in a private school, and such funds may not be used for meeting the needs of a private school or the general needs of the students enrolled in the private school. The LEA must use the proportionate share of Federal Part B funds to meet the special education and related services needs of parentally placed private school children with disabilities.

Question H-11: Who is required to monitor an LEA’s expenditures of Part B funds to meet the requirements for equitable services?

Answer: As required by 34 CFR §§300.149(a) and 300.600(b)(2), the SEA is responsible for ensuring that LEAs meet all program requirements under Part B of the IDEA. This includes the requirement that an LEA expend the proportionate share of Part B funds on providing special education and related services to parentally placed private school children with disabilities in accordance with 34 CFR §§300.129 through 300.144.

Question H-12: Must children whose parents decline special education and related services be included in a school district’s proportionate share calculation?

Answer: Yes. As specified in 34 CFR §300.131(a), each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA. The number of parentally placed private school children with disabilities is used to determine the amount that the LEA must spend on providing special education and related services to parentally placed private school children with disabilities in the next subsequent fiscal year. Under 34 CFR §300.300(d)(4), if a parent of a home-schooled or parentally placed private school

child declines to consent to the initial evaluation or the reevaluation, the public agency may not use the consent override procedures to seek to conduct the evaluation and, thus, may not include the child in the annual count of the number of parentally placed private school children with disabilities. If the LEA evaluates a parentally placed private school child and determines the child eligible under the IDEA, but the parent declines the offer of special education and related services, the LEA must include this child in the annual count of the number of parentally placed private school children with disabilities. Thus, an LEA must include in its proportionate share calculation eligible children with disabilities, including those children whose parents decline all publicly funded services and place them in a private school at their own expense, provided those children are enrolled by their parents in a private, including a religious, elementary school or secondary school located in the school district served by the LEA.

I. Property, Equipment, and Supplies

Authority: The requirements for property, equipment, and supplies are found in 34 CFR §300.144.

Question I-1: May a public agency place equipment and supplies for equitable services in a private school?

Answer: Yes. The public agency may place equipment and supplies in a private school, but only for the period of time needed to meet the equitable participation requirements for the Part B program. The public agency must ensure that equipment and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility. The public agency must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes or if removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes. See 34 CFR §300.144(b), (c), and (d).

Question I-2: May Part B funds for equitable services be used for repairs, minor remodeling, or construction of private school facilities?

Answer: No. Part B funds for equitable services may not be used for repairs, minor remodeling, or construction of private school facilities. See 34 CFR §300.144(e).

J. Out-of-State Children With Disabilities

Authority: The requirements for out-of-State children are found in 34 CFR §300.131(f).

Question J-1: Must the LEA where the private elementary and secondary schools are located conduct child find activities for parentally placed private school children who reside outside the State?

Answer: The child find provision in 34 CFR §300.131(f) makes clear that the LEA where the private elementary and secondary schools are located is responsible for conducting child find, including individual evaluations, of all parentally placed private school children suspected of

having a disability enrolled in private elementary and secondary schools located in the LEA, regardless of where those children reside. This includes all children from other States who may be attending private elementary schools and secondary schools located in the LEA.

Question J-2: Who is responsible for determining and paying for services provided to out-of-State parentally placed private school children with disabilities?

Answer: The LEA where the private school is located, in consultation with private school officials and representatives of parents of parentally placed private school children with disabilities, is responsible for determining and paying for the services to be provided to out-of-State parentally placed private school children with disabilities attending private elementary and secondary schools located in that LEA. Under 34 CFR §300.131(f), these out-of-State children must be included in the group of parentally placed children with disabilities whose needs are considered in determining which parentally placed private school children with disabilities will be served and the types and amounts of services to be provided.

Question J-3: May an LEA require another LEA to pay for the services of a parentally placed private school child with a disability from another State?

Answer: No. Section 300.133(a) of the regulations clarifies that the LEA where a private school is located is responsible for spending a proportionate amount of its subgrant under Part B of the IDEA on special education and related services for children enrolled by their parents in private elementary and secondary schools located in the LEA. There is no exception for out-of-State children with disabilities attending a private school located in the LEA. Therefore, out-of-State children with disabilities must be included in the group of parentally placed children with disabilities whose needs are considered in determining which parentally placed private school children with disabilities will be served and the types and amounts of services to be provided. Another LEA may not be charged for child find and equitable services even if the child with a disability resides in another State.

Nothing in the IDEA precludes an LEA from contracting with a third party to fulfill its obligations to ensure equitable participation. This includes contracting with a student's LEA of residence as a third party provider.

Question J-4: When making a determination regarding the services that an LEA will provide to children with disabilities placed by their parents in private schools, could an LEA decide to only provide services to students from their LEA or their State?

Answer: No. Although LEAs have discretion to determine how the proportionate share of Federal Part B funds will be expended so long as the consultation requirements in 34 CFR §300.134 are followed for all parentally placed private school children, LEAs cannot determine, prior to or in absence of the timely and meaningful consultation process, that the proportionate share of Federal Part B funds for equitable services can only be expended to meet the needs of children who are residents of that LEA or State.

K. Home-Schooled Children with Disabilities

Authority: The requirements for children with disabilities enrolled by their parents in private schools are found in 34 CFR §§300.130 through 300.144.

Question K-1: Which LEA is responsible for conducting child find for children who are homeschooled?

Answer: Generally, the LEA where the child resides is responsible for conducting child find activities, including initial evaluations and reevaluations, for children who are homeschooled.

Question K-2: Are home-schooled children considered parentally placed private school children?

Answer: Whether home-schooled children with disabilities are considered parentally placed private school children with disabilities is determined under State law. If the State recognizes home-schools as private elementary schools and secondary schools, children with disabilities in those home-schools must be treated in the same way as other parentally placed private school children with disabilities.

Question K-3: If a home-schooled child enrolled in the public school for the purpose of taking some academic courses was identified as having a disability, would the student be treated as a parentally placed private school child or as a public school child?

Answer: Whether a home-schooled child with disabilities enrolled in the public school for the purpose of taking some academic courses would be treated as a parentally placed private school child entitled to be considered for equitable services or as a public school child entitled to receive FAPE is determined under State law. Even if such a child were not considered a public school student, the public school would have to meet the requirements of section 504 of the rehabilitation Act of 1973, as amended, and title II of the Americans with Disabilities Act, as amended, by providing the child an equal opportunity to participate in or benefit from the academic courses provided at the public school. In addition, the responsible public agency, generally the LEA of residence, would have to make FAPE available to the child consistent with Part B requirements if the parent seeks to enroll the child with a disability in the public school full-time.

L. Due Process

Authority: The requirements for how due process and State complaints apply to children parentally placed in private schools are found in 34 CFR §300.140.

Question L-1: Under what circumstances may a parent file a due process complaint under the private school provisions?

Answer: As provided in 34 CFR §300.140(b), a parent of a child enrolled by that parent in a private school has the right to file a due process complaint regarding the child find requirements in 34 CFR §300.131, including the requirements in 34 CFR §§300.300 through 300.311. Such a complaint must be filed with the LEA in which the private school is located, and a copy must be forwarded to the SEA by the LEA. The due process provisions in section 615 of the Act and 34 CFR §§300.504 through 300.519 of the regulations do not apply to issues regarding the provision of services to any particular parentally placed private school child with disabilities whom an LEA has agreed to serve because there is no individual right to services for such children under the IDEA. Disputes that arise about equitable services are, however, properly subject to the State complaint procedures in 34 CFR §§300.151 through 300.153. As provided in 34 CFR §300.140(c), a parent may file a signed written complaint in accordance with the State complaint procedures alleging that an SEA or LEA has failed to meet the private school requirements, such as failure to properly conduct the consultation process.

M. State Complaints

Authority: The requirements for State complaints are found in 34 CFR §§300.136 and 300.140.

Question M-1: Do private school officials have the right to file a complaint under the State complaint provisions in 34 CFR §§300.136 and 300.140?

Answer: Yes. Under 34 CFR §300.136, a private school official has the right to complain to the SEA that the LEA did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. Under this provision a complaint must provide the basis of the private school official's belief that the LEA did not comply with the consultation requirements. The LEA must forward appropriate documentation related to the complaint to the SEA. If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary providing the basis of the official's belief that the LEA did not comply with the consultation requirements, and the SEA must forward the appropriate documentation related to the complaint to the Secretary.

Question M-2: If the parent of a parentally placed private school child with a disability files a State complaint alleging that the services identified in the child's services plan were not provided, is it permissible for the SEA to resolve the complaint by requiring the LEA to provide compensatory services? How would the provision of these services affect the calculation of the expenditures to meet the required proportionate share?

Answer: Under 34 CFR §300.140(c), any complaint alleging that an SEA or LEA has failed to meet the requirements in 34 CFR §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the State complaint procedures described in 34 CFR §§300.151 through 300.153. If in resolving such a complaint, the SEA determines that compensatory services are the appropriate remedy, such services may be ordered by the SEA if sufficient funds are available from the proportionate share set aside in the LEA to provide equitable services under 34 CFR §§300.129 through 300.144.

If the proportionate share has been expended prior to the awarding of compensatory services to resolve a complaint, the SEA cannot require an LEA to spend additional Part B funds, beyond the minimum amount required under 34 CFR §300.133(a), to pay for compensatory services for a parentally placed private school child with a disability. However, under 34 CFR §300.133(d), State and local funds may supplement, but not supplant, the proportionate amount of Federal Part B funds required to be expended for parentally placed private school children with disabilities. The use of State and local funds, on top of the proportionate share of Part B funds, is permitted but not mandatory. Therefore, if the proportionate share of Part B funds has been expended, pursuant to the authority in 34 CFR §300.133(d), a State may, but is not required to, order an LEA to use State and local funds to pay for compensatory services for a parentally placed private school child with disabilities. It is important that as part of the consultation process, the LEA, private school officials, and representatives of parents of parentally placed private school children with disabilities consider the amount of the proportionate share of Part B funds in determining what services will be provided in order to ensure an LEA has sufficient Part B funds to implement the services plan for each parentally placed child with a disability who has been designated to receive services.

N. Preschool Children

Authority: The requirements for children with disabilities enrolled by their parents in private schools are found in 34 CFR §§300.130 through 300.144.

Question N -1: What obligation, if any, do districts have to serve three- through five-year old children who are parentally placed in private preschools?

Answer: An LEA's obligation to serve children aged three through five under the equitable services provisions depends on whether a child is enrolled in a private school or facility that meets the definition of "elementary school" in the IDEA and the final regulations. "Elementary school" is defined in 34 CFR §300.13 as a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law. Accordingly, three- through five-year-old children with disabilities who are enrolled by their parents in a private school or facility that meets the State's definition of "elementary school" would be considered parentally placed and the equitable participation provisions would apply.

A child aged three through five enrolled by his or her parents in a private school or facility that does not meet the State's definition of "elementary school" would not be eligible to be considered for equitable services. However, the State's obligation to make FAPE available to such a child remains. Section 612(a)(1) of the IDEA requires that States make FAPE available to eligible children with disabilities aged three through 21 in the State's mandated age range (34 CFR §300.101). Because many LEAs do not offer public preschool programs, particularly for three- and four-year olds, LEAs often make FAPE available to eligible preschool children with disabilities in private schools or facilities in accordance with 34 CFR §§300.145 through 300.147. In these circumstances, there is no requirement that the private school or facility be an "elementary school" under State law.

In some instances, an LEA may make FAPE available in the private preschool program that the parent has selected. If there is a public preschool program available, the LEA of residence may choose to make FAPE available to a preschool child in that program. If the group of persons making the placement decision, as specified in 34 CFR §300.116(a)(1), places the child in a public or private preschool program and the parents decline the public agency's offer of FAPE because they want their child to remain in the private preschool program they have selected, the public agency is not required to provide FAPE to that child. The parent may challenge the public agency's determination of what constitutes FAPE for their child using the State complaint and due process procedures available under IDEA.

O. Children in For-Profit Private Schools

Authority: The requirements for children with disabilities enrolled by their parents in private schools are found in 34 CFR §§ 300.130 through 300.144.

Question O-1: Are children enrolled in a for-profit private school counted for the purpose of determining the proportionate share and eligible to receive equitable services?

No. The regulations in 34 CFR §300.130 define parentally placed private school children with disabilities as children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in 34 CFR §300.13 or secondary school in 34 CFR §300.36. The definitions of elementary school in 34 CFR §300.13 and secondary school in 34 CFR §300.36 specify that the school must be nonprofit. Therefore, children attending for-profit private schools would not be included in the proportionate share calculation or be eligible for equitable services.

However, under 34 CFR §300.111, the State must ensure that all children with disabilities, including children with disabilities attending private schools, who are in need of special education and related services, are identified, located, and evaluated. This includes children with disabilities attending for-profit schools. A State determines which public agency is responsible for conducting child find under 34 CFR §300.111 for children suspected of having a disability attending for-profit private schools. Generally, this agency is the LEA in which the child resides.

PROGRAM TRANSFER POLICY

POLICY

A new provision in EC Section 56207(b) under AB 602 is that a program transfer may take place as of July 1 at the start of the first fiscal year after the process is initiated if the transfer is unanimously approved by SECA or individuals identified in EC Section 56205(B)(1). The operating cost forms (Exhibits B and C) approved by the AB 602 Committee will be used as a budget planning tool to determine the estimated cost of the program to be transferred and the estimated cost for the remaining program, if applicable. A plan must be developed, pursuant to EC Section 56207(A)(1-7) that addresses pupil needs, availability of a full continuum of services, maintenance of all current services provided in the student's IEP provision of services in the least restrictive environment, adherence to all federal and State laws, as well as SELPA policies, and involvement of parents and staff in the final process.

The following standards are to be met when a SELPA-member LEA takes back Regional special education programs/services.

- a. LEAs planning to take back Regional special education programs/services must notify, in writing, the Santa Cruz County Superintendent of Schools and the SECA chair no later than February 1st of the year prior to implementation. However, by mutual agreement of both the County Superintendent of Schools and SECA, notification can be made after the February deadline.
- b. Program transfers shall be on a class-by-class basis. The related services must be provided by the receiving LEA.
- c. If the LEA is running a non-regional program, the receiving LEA shall serve all resident and non-resident students in the particular class to be taken back. In other words, the LEA may not remove out-of-district students and serve only in-district students. Out-of-district students may be phased out as they graduate from the program or move.

If the LEA is running a non-regional program and pursuant to Ed Code Section 56207, the SELPA Director and Special Education Council (SEC) will review impact to the availability of the full continuum of program and service options to students within the SELPA, as well as the provision of services in the least restrictive environment from which students can benefit. Based on this information, SEC will advise SECA to any potential impacts to students.

- d. A one-year mitigation or high-cost factor shall be developed for those LEAs taking back programs that result in increased costs to the remaining SELPA-member LEAs participating in the Regional special education programs/services.

Procedures and a formula to determine the program transfer revenue, including a potential one-year mitigation or high cost factor, need to be considered and developed by the AB 602 Committee. This formula will take into consideration Section 4 (Allocation of Funds for Regional Special Education Programs/Services) of this plan.

- e. When the LEA chooses to serve its own resident students in the LEA that were previously served by a Regional program, the LEA's contribution to Regional programs is reduced by the utilization portion in Section 4 (Allocation of Funds for Regional Special Education Programs/Services) of this plan.

SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE (SCIA)

POLICY

Every school district within the North Santa Cruz County SELPA is required to provide a full continuum of placement options for students with identified disabilities who are receiving special education services. The Individuals with Disabilities Education Act (IDEA) and California laws and regulations describe a continuum of placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (CFR 300.551 (b) (1)).

The IDEA also defines related services as the utilization of aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate. This applies to any general education program or special education program in which the student may participate (34 CFR Part 300.550-300.556). There may be special circumstances when a student may need additional support in order to be successful in his/her educational placement.

A goal for any student with special needs is to encourage, promote, and maximize independence. The Individualized Education Plan (IEP) team is responsible for developing and implementing a program that promotes that independence. Natural supports and existing staff supports should be used whenever possible.

If the IEP team is considering a Special Circumstance Instructional Assistance (SCIA) as a support for the classroom staff, the team must determine:

- a. Natural supports and/or existing staff supports are not adequate for the student to participate and progress in the general education program;
- b. Additional support is necessary to assist classroom staff in facilitating the student in:
 - Advancing appropriately toward the annual goals and/or;
 - Involvement in and progress in the general curriculum and/or;
 - Participation in extracurricular and other nonacademic activities and/or;
 - Participation with other disabled and non-disabled students.
- c. How quickly it anticipates the support can be faded and develop a method for systematic evaluation toward independence and more natural supports.

If the IEP Team recommends SCIA support, the team is also responsible for monitoring so that additional supports may be faded as soon as possible. If not carefully monitored and evaluated on a regular basis, additional paraprofessional support can unintentionally foster dependence.

Initial

When the members of the IEP team are considering the need for a SCIA support, there are a variety of tools that should be used (Referral for Special Circumstance Instructional Assistance, Rubric to Determine Need for Special Circumstance Instruction Assistance (SCIA) Support, Checklist of Existing Environmental Supports, School Day Analysis and Special Circumstance Paraprofessional Support Summary Sheet). Using these tools, the team should be able to identify the specific activities and times for which additional assistance or supervision is required. Please refer to the flowchart to assistance in determining the steps involved in moving forward with a referral for a SCIA.

There are some instances in which the need for SCIA support can be determined using existing data in the context of an IEP meeting. Most often, it is anticipated that an Assessment Plan will need to be developed in order to collect necessary data to bring to the IEP team.

Review of need

At regular intervals, designated members of the IEP team should use the tools to collect data about whether the level of assistance continues to be needed. As the student's level of independence or ability to use natural supports increases, behavior improves or the make-up of the class changes, the assistance should be faded.

Areas of need

It is important that the team consider each type of assistance listed below in order to determine if the student needs assistance with a particular activity and to estimate the amount of time that will be needed.

1. Health/Personal Care-

- a. Self help and bathroom needs- If a student needs assistance with toileting or other self-help skills, the team should note the times and duration for this activity. This should only be for brief periods during the day.
- b. Assistance during snack or lunch- If the student requires assistance with feeding, etc., note the type of assistance needed and note the times and duration required. Encourage reliance on peer helpers (with supervision) or other natural supports as much as possible for getting out food, opening containers, etc.

- c. Specialized Physical Health Care- Some intensive health supports may necessitate a SCIA support for an indefinite length of time.
- d. Assistance with medical needs- Some students need additional assistance for medical reasons. If so, the team should consider the doctor's orders and the time of day and duration. Some medically related supports might be necessary only for brief periods per day/week.

2. Behavior-

- a. Due to behavior challenges, some students may need intensive support in order to assist classroom staff in implementing a Positive Behavior Support Plan.
- b. SCIA support may be needed for a brief period to collect data while regular classroom staff are implementing a Positive Behavior Support Plan.

3. Instruction-

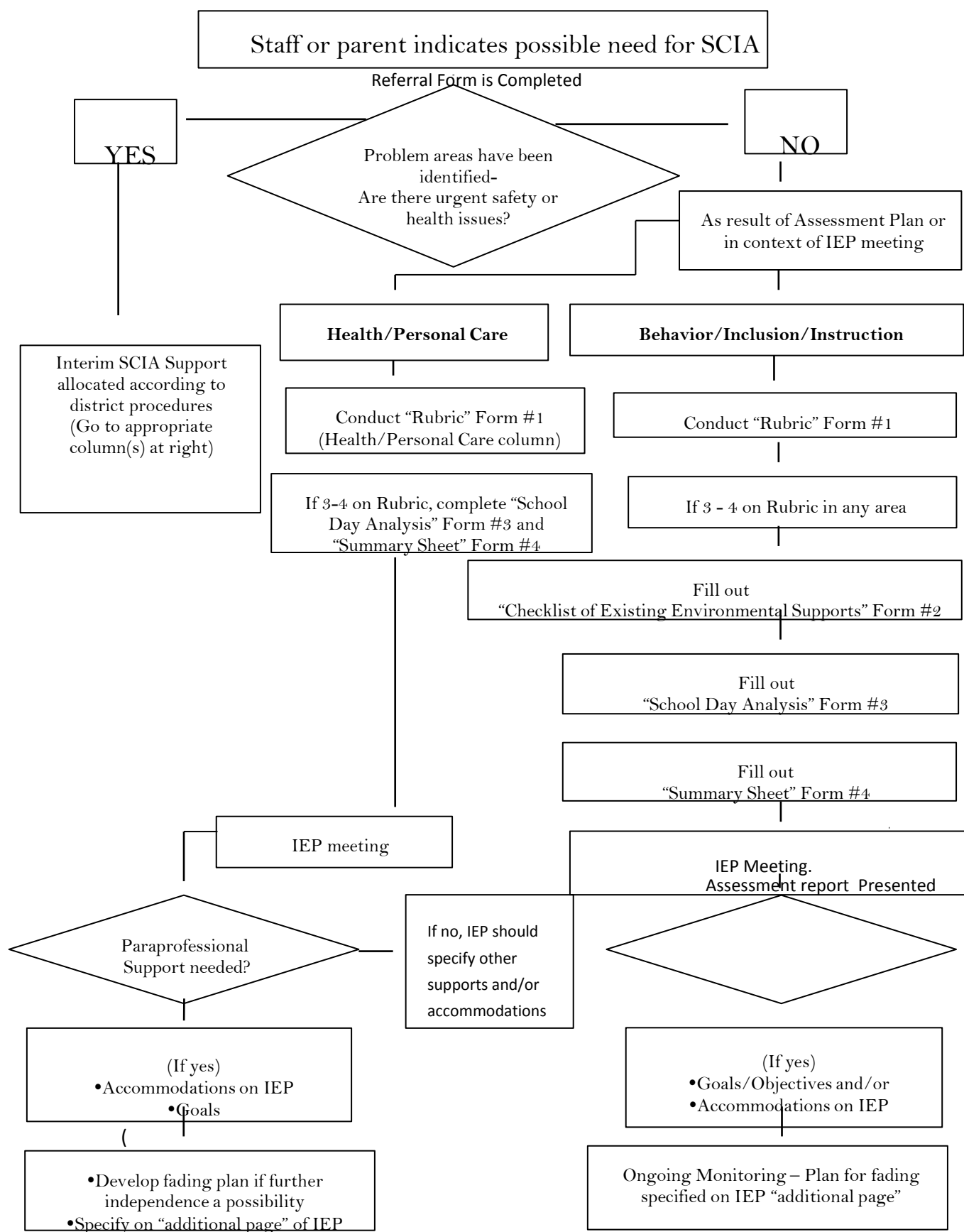
- a. Curriculum adaptations- Adaptations of the curriculum (highlighting, copying, enlarging, adding icons, cutting and pasting, etc.) should be done under the direction of the teacher. Most students will require no more than 1-1½ hours daily for curriculum adaptation. Curriculum adaptations do not need to be done in the classroom or in the physical presence of the teacher. Adult volunteers and parents may perform some of these activities.
- b. Instructional support- Sometimes classroom staff need assistance in supporting a student in staying on-task or providing follow-up instruction. This should be faded as soon as schedules and/or behavior supports are put into place.

4. Inclusion-

- a. Recess or other activities- Assistance may be necessary if there are safety concerns with the student. It may also be needed when staff is attempting to facilitate social interactions with peers. Care should be taken that the development of natural peer supports and/or use of existing resources are the goals of the extra assistant, otherwise the adult may become the student's sole recess companion.

- b. Assistance with transitions- If a student has difficulty transitioning from classroom to playground, playground to classroom, or between activities, extra support may need to be available to help. When needed, the team should indicate type(s) of transition(s) as well as time of day and duration.
- c. Assistance with classroom centers or other activities- If there is a particular activity or time of day which is difficult for the student, extra help may be needed. When needed, the team should specify activity, time of day and duration.

Flowchart for Determining Need for Special Circumstance Instructional Assistance



North Santa Cruz County SELPA

Rubric to Determine Need for Special Circumstances Instructional Assistance Support

SCIA Form One

Student: _____ **DOB:** _____ **Eligibility:** _____ **Date:** _____

Teacher: _____ **Program/School:** _____

Completed by: _____ **Title:** _____

Mark the box that includes factors that best describes the student in each rubric category that is appropriate.

	Health/Personal Care	Behavior	Instruction	Inclusion
0	General good health. No specialized health care, or procedure, or medications taken. Independently maintains all "age appropriate" personal care. <input type="checkbox"/>	Follows adult directions without frequent prompts or class supervision. Handles change and redirection. Usually gets along with peers and adults. Seeks out friends. <input type="checkbox"/>	Participates fully in whole class instruction. Stays on task during typical instruction activity. Follows directions with few to no additional prompts. <input type="checkbox"/>	Participates in some core curriculum within general education class and requires few modifications. Can find classroom. Usually socializes well with peers. <input type="checkbox"/>
1	Mild or occasional health concerns. Allergies or other chronic health conditions. No specialized health care procedure. Medication administration takes less than 10 minutes time. Needs reminders to complete "age appropriate" personal care activities. <input type="checkbox"/>	Follows adult direction but occasionally requires additional encouragement and prompts. Occasional difficulty with peers or adults. Does not always seek out friends but plays if invited. <input type="checkbox"/>	Participates in groups at instructional level but may require additional prompts, cues, or reinforcement. Requires reminders to stay on task, follow directions, and to remain engaged in learning. <input type="checkbox"/>	Participates with modification and accommodation. Needs occasional reminders of room and schedule. Requires some additional support to finish work and be responsible. Needs some social cueing to interact with peers appropriately. <input type="checkbox"/>
2	Chronic health issues, generic health care procedure. Takes medication. Health care intervention for 10-15 minutes daily (diet, blood sugar, medication). Requires reminders and additional prompts or limited hands on assistance for washing hands, using bathroom, wiping mouth, shoes, buttons, zippers, etc. Occasional toileting accidents. <input type="checkbox"/>	Has problems following directions and behaving appropriately. Can be managed adequately with a classroom behavior support plan, but unable to experience much success without behavior support plan implementation. <input type="checkbox"/>	Cannot always participate in whole class instruction. Requires smaller groups and frequent verbal prompts, cues, or reinforcement. On task about 50% of the time with support. Requires more verbal prompts to follow directions. Requires signing 50-79% of the time. <input type="checkbox"/>	Participates with visual supervision and occasional verbal prompts. Requires visual shadowing to get to class. Needs modifications and accommodations to benefit from class activities. Regular socialization may require adult facilitation. <input type="checkbox"/>
3	Specialized health care procedure and medication. Limited mobility. Physical limitations requiring assistance (stander, walker, gait trainer or wheelchair). Special food prep or feeding. Health or sensory interventions 15-45 min. daily. Frequent physical prompts and direction assistance for personal care. Requires toilet schedule, training, direct help, diapering. <input type="checkbox"/>	Serious behavior problems almost daily. Defiant and/or prone to physical aggression which may be harmful to self or others. Requires a Behavior Intervention Plan (BIP) and behavior goals and objectives on the IEP. Requires close visual supervision to implement BIP. <input type="checkbox"/>	Difficulty participating in a large group. Requires low student staff/ratio, close adult proximity, and prompts including physical assistance to stay on task. Primarily complies only with 1:1 directions and monitoring. Abilities and skills require strategies/adaptations not typical for class as a whole, such as: Discrete Trial, ABA, Structured Teaching, PECS or Assistive Technology. Requires signing over 80% of time. <input type="checkbox"/>	Does not participate without staff in close proximity for direct instruction, safety, mobility, or behavior monitoring. Requires adult to facilitate social interaction with peers and remain in close proximity at all times. Difficulty following school routines & schedules. Needs direct support to get to & from class. <input type="checkbox"/>
4	Very specialized health care procedure requiring care by specially trained employee (G tube, tracheotomy, catheterization.) Takes medication, requires positioning or bracing multiple times daily. Health or sensory related interventions 45 min. or more daily. Direct assistance with most personal care. Requires two-person lift. Direct 1:1 assistance 45 or more minutes daily. <input type="checkbox"/>	Serious behavior problems with potential for injury to self and others, runs away or aggressive on a daily basis. FAA or FBA has been completed and the student has a well-developed BIP that must be implemented to allow the student to safely attend school. Staff has been trained in the management of assaultive behaviors. <input type="checkbox"/>	Does not participate in a group without constant 1:1 support. Requires constant verbal and physical prompting to stay on task and follow directions. Regularly requires specific 1:1 instructional strategies to benefit from the IEP. Cognitive abilities and skills require significant accommodation and modification not typical for the class group. Requires signing 100% of time. <input type="checkbox"/>	Participation may require additional staff for direct instructional and behavioral support. Requires direct supervision going to and from class. Always requires modification and accommodations for class work. Rarely interacts with or is interested in peers. <input type="checkbox"/>

North Santa Cruz County SELPA Checklist of Existing Environmental Supports

Student: _____ DOB: _____

Disability: _____ Teacher: _____

Program/School: _____ Eligibility: _____

Completed by: _____ Title: _____ Date: _____

A. Classroom schedule:

Is there a posted classroom schedule?

Yes ☐ (answer questions below) **No** ☐

1. The following elements are included in the classroom schedule:

- ☐ times ☐ students
☐ activities ☐ locations
☐ staff names

2. The schedule is:

- ☐ daily
☐ weekly
☐ other

★Attach sample classroom schedule.

Suggestions/
Next Steps

B. Schedule for individual student:

Is there an individual student schedule?

Yes ☐ (answer questions below) **No** ☐

1. Student uses the following format for individualized schedule:

- ☐ object ☐ icon
☐ photograph ☐ word
☐ picture

2. Student ability to follow the schedule:

- ☐ independent ☐ with physical prompts
☐ with indirect verbal or gestural prompts ☐ inconsistent
☐ with direct verbal prompts

3. Student use of the schedule:

- ☐ student carries schedule ☐ student uses transition cards
☐ student goes to schedule board ☐ inconsistent
☐ teacher carries and shows the schedule

4. Room is arranged with structure to correlate with tasks on schedule:

(check all that apply):

- ☐ area for one-to-one work ☐ area for independent work
☐ area for group work ☐ area for leisure
☐ not applicable

★Attach sample individual schedule.

C. Curriculum and instruction:

1. Are materials and activities differentiated for student's:
 - Chronological age? (*describe*)-
 - Ability level? (*describe*)-
 - Interest level? (*describe*)-
2. Check the curricular domains included in the student's program:

<input type="checkbox"/> communication	<input type="checkbox"/> pre-vocational/vocational
<input type="checkbox"/> domestic skills	<input type="checkbox"/> recreation/leisure
<input type="checkbox"/> self-care	<input type="checkbox"/> motor skills/mobility
<input type="checkbox"/> academics	<input type="checkbox"/> other _____
<input type="checkbox"/> social skills	
3. List equipment or devices used/available that may relate to the need for assistance (*may be low incidence equipment or assistive technology device*).
4. Describe an activity which is challenging for the student.
If appropriate, attach a sample task analysis form used for a challenging activity with the student (*see page 20 for sample form*).

D. Behavior Support:

Are there problem behavior(s) interfering with learning of self or others?

☐ **Yes** (*answer questions below*) ☐ **No**

- Brief description of problem behavior(s)-
- Where behavior(s) typically occur-
- When behavior(s) typically occur-

1. Student has a Positive Behavior Support Plan/Behavior Intervention Plan:
☐ **Yes** (*answer questions below*) ☐ **No**
2. Behavior plan is based on a Functional Behavior analysis (FBA) or Functional Analysis Assessment (FAA):
☐ yes ☐ no ☐ in process ☐ need to initiate
3. How effective is the plan in addressing the student's needs?
☐ very ☐ moderately ☐ mildly ☐ not at all
4. Describe anticipated level of support to implement plan (i.e., frequency of reinforcement, prompting, redirection).
5. What supports exist for implementing the plan?
 (i.e., self-monitoring, other adults)

Suggestions/
Next Steps

★Attach Behavior Support Plan/Behavior Intervention Plan.

E. Current data systems and collection of data:

Are there current data on each IEP objective and/or behavior plan?

☐ **Yes** (*answer questions below*) ☐ **No**

1. Data records include:
☐ date ☐ level of independence (*prompting needed*)
☐ task
☐ level of progress
2. Data are collected:
☐ daily ☐ other _____
☐ weekly
☐ monthly
3. Data are summarized:
☐ graphed ☐ other _____
☐ written narrative

★Attach sample data collection sheet- sample form on page 19.

F. Planning team meetings:**Are team meetings held?** (*formal or informal meetings to problem solve.*)☐ **Yes** (*answer questions below*)☐ **No****1. Meetings are held:**☐ daily☐ weekly☐ monthly☐ bi-weekly☐ not applicable☐ needed**2. Meetings include:**☐ parent(s)☐ general education teacher☐ specialists☐ special education teacher☐ yard duty☐ others _____Suggestions/
Next Steps***Attach team meeting format.****G. Layout of setting where supports may be needed:**

Diagram or describe the arrangement of furniture, small group instruction areas, and/or equipment of the classroom or other setting:

H. Check and describe other supports currently provided:☐ training for instructional staff_____☐ consultation for the classroom staff_____☐ in-classroom coaching_____☐ other _____Please summarize from this form components that need to be developed/implemented and/or where further training/consultation/coaching may be needed before considering need for additional adult support (*see notes in "suggestions/next steps" column.*)

School Day Analysis

SCIA Form Three

Student: _____DOB: _____Disability: _____

Teacher: _____Program/School: _____

Completed by: _____Title: _____Date: _____

Time	Activity	What student can do without assistance	What student needs accommodation/ assistance to complete	What adult support is currently available (Specify & include ratio)	Can peer support be provided? (Specify)	Is there, or can there be, an IEP goal for independence? (Specify)

Use as many copies of this page as necessary to describe all areas of concern throughout the student’s typical school day.

**Special Circumstance Instructional Assistance
Support
- Summary Sheet -**

SCIA Form Four

Student: _____ DOB: _____ Disability: _____

Teacher: _____ Program/School: _____

Completed by: _____ Title: _____ Date: _____

Check the areas of intensive need that might require additional paraprofessional support:

Health/Personal Care	Behavior	Instruction	Inclusion
<input type="checkbox"/> G-tube feeding* <input type="checkbox"/> Medication * <input type="checkbox"/> Suctioning * <input type="checkbox"/> Food preparation <input type="checkbox"/> Diaper changing <input type="checkbox"/> Feeding-full support <input type="checkbox"/> Seizures * <input type="checkbox"/> Lifting/Transfers <input type="checkbox"/> Other: _____ * Specialized physical health care plan or emergency plan.	<input type="checkbox"/> Behavior plan implementation or documentation <input type="checkbox"/> Physically aggressive <input type="checkbox"/> Non-compliant in class <input type="checkbox"/> Non-compliant on campus <input type="checkbox"/> Runs away <input type="checkbox"/> Self-injurious <input type="checkbox"/> Other: _____	<input type="checkbox"/> Unique strategies not typical for class <input type="checkbox"/> Visual communication system <input type="checkbox"/> Structured teaching <input type="checkbox"/> High level of physical prompts <input type="checkbox"/> High level of verbal prompts <input type="checkbox"/> Assistive technology support <input type="checkbox"/> Sign language <input type="checkbox"/> Other: _____	<input type="checkbox"/> Instructional support <input type="checkbox"/> Physical support/positioning <input type="checkbox"/> Safety supervision <input type="checkbox"/> Social support <input type="checkbox"/> Transitions <input type="checkbox"/> Recess/lunch <input type="checkbox"/> Other: _____
<i>Areas of Need</i>			<i>Time/Days</i>
1.			
2.			
3.			
4.			
5.			
6.			
7.			

For each area of need in which further independence is possible, develop an IEP goal & a plan for frequent monitoring for the purpose of fading the paraprofessional support. Other ongoing supports should be noted on the Accommodations page of the IEP.

Assessment Report

The assessment report completed by the school psychologist or program specialist will be presented at the IEP meeting (Assessment Report Outline.) (When possible, a school psychologist from another school may complete the assessment.) If the IEP team agrees that SCIA support is needed for a particular student, it will be noted on the IEP in the meeting notes and on the service page.

Extra paraprofessional support provided to a teacher to assist in managing a whole class not specific to any one child's needs may be also noted in the Modification/Accommodations section of the service page as "additional supports for the **classroom**."

For each area in which SCIA support is being provided due to lack of skill or independence, the IEP team should write a goal. Some areas, such as health/personal care needs may not be appropriate for goals. These supports should be noted on the "Accommodations page."

IEP If additional SCIA support is required as a result of a child's behavioral difficulties, the child's IEP should include a Positive Behavioral Support Plan or Behavior Intervention Plan.

For areas in which increased independence is possible, note the means for evaluating whether the SCIA support continues to be needed on the "Additional page." In these cases, write a systematic plan to address how the support will be monitored and faded as independence increases.

When a SCIA is provided to assist a child on a short-term basis (i.e., transition to a new program), the written plan should specify the level of independence to be achieved before the SCIA is faded/removed, or a date when the SCIA will be discontinued.

Evaluation

The student's Case Manager is responsible for monitoring the written plan, supervising the SCIA and developing a system for data collection. The Case Manager will review the data and advise the SCIA with strategies for fading and promoting increased student independence and goal attainment. The Case Manager should meet at periods specified in the plan with selected members of the IEP team to review the data, make adjustments to the plan, if needed, and determine when criteria for fading have been met. Major changes to the plan would require an IEP Review or Addendum.

If there is a goal which reflects the area in which SCIA support is being provided, then data collection on progress toward that goal will be sufficient.

(Attached are sample forms for monitoring increased student independence.)

Team Meetings (to facilitate/support the fading process):

The Case Manager, teacher, parent(s) and others involved with the student should meet periodically and as necessary to evaluate student progress and continued need for special circumstance instructional assistance. The Case Manager should bring updated documentation by

completing Task Analysis Data Sheet, IEP Goal and Objective Charting, and Rubric to Determine Need. Strategies and support for encouraging student independence and stepping back as possible are important. SCIA support is NOT a person, but assistance. If the individual offering the support is having difficulty “letting go,” it may be necessary to rotate instructional assistance.

Guidelines for planning for fading in the IEP

- Develop goals and objectives that contain reduced levels of support and prompting to be used as measures of need.
- Include specific plan for reinforcement of Positive Behavior Support Plan.
- Specify accommodations/modifications to be provided as needed or as requested by student.
- Indicate specific activities and/or time for SCIA support under “Support for Student” on the IEP page indicating *least restrictive environment*.
- Specify criteria for fading measures to be used, who will review and how often in written plan for fading on “Additional Page” of IEP.

IEP GOALS AND OBJECTIVES CHARTING

Student: _____

School Year: _____

Levels of Assistance

- 1 = Independent**
2 = Gesture/Nonverbal Cue
3 = Verbal Cue
4 = Model
5 = Physical Prompt

[illegible]

Comments:

TASK ANALYSIS DATA

Student: _____

Goal: _____

Activity: _____

School Year: _____

Levels of Assistance

1 = Independent

2 = Gesture/Non Verbal Cue

3 = Verbal Cue

4 = Model

5 = Physical Prompt

-- = Not Applicable

STEPS:

Dates:

[illegible]

Comments (Environmental Setting, Location, Peer Grouping, Specific Data, Unusual Situation, etc.):

General Workshops for Special Circumstance Instructional Assistance (SCIA):

The following workshops are designed for implementing the NSCC SELPA SCIA Policy. They are offered periodically throughout the year or as needed by SELPA or district. Some may be available to districts upon request. Not all workshops are appropriate for all SCIA assignments.

New Special Education Instructional Aide Training – This workshop covers these elements:

- Special Education disabilities
- The IEP
- Learning styles
- The Paraprofessional's role
- Supporting positive behavior

The Paraprofessional's Role in Full Inclusion – Uses a video and workbook and covers these elements:

- "People first" language
- Collaboration
- Philosophy of inclusive education
- The role of the paraprofessional in supporting the student
- Facilitating academic and social growth
- Assisting the teacher and documenting progress

It also includes:

- Strategies for "fading" support
- Working as a part of a team
- Positive behavior support
- Adaptation of instructional material

This is a very thorough training when conducted in person during a 3-hour session showing the video and stopping to discuss and enter information into the workbook. It is much less effective if the video is shown straight through (takes about 30 minutes). The videotape and workbook may be checked out from the Ventura County SELPA Library.

Accommodations and Modifications for Special Education Students in the Mainstream – This workshop offers ideas and strategies for paraprofessionals for modifying curriculum and instruction to meet student's needs.

Why Won't This Kid Behave? – A brief overview for paraprofessionals of the Positive Behavior Support Plan process and how to assist the teacher in implementing the plans.

The Paraprofessional's Role in Teaching Reading – Covers basic components of reading instruction and how to assist the teacher.

Children with Autism-Expectations for the Paraprofessional – Covers general characteristics and strategies for supporting children with autism.

TEACCH – The Paraprofessional's Role – A workshop on the Structured Teaching Approach, rationale and strategies.

Intensive Behavior Intervention – Covers four basic approaches for individual interventions with students with autism.

Possible specific training for various areas of intensive need:

Most are provided at the district level by a trained professional and are specific to a student's need.

General Health and Personal Care – Training to be provided by school nurse and/or other health care provider on district procedures and policies (i.e., Blood- borne pathogens, use of gloves, medications, diapering, etc.). It is recommended that individuals providing SCIA support have CPR and First Aid certificates.

Specialized Health Care Procedures – These are developed to cover procedures for a specific child such as skin care with diapering, lifting techniques, feeding, food preparation, changing positions, etc. Training will be provided by a school nurse or other health care professional. It may also be done by the parent in some cases. In most cases, the person who conducts the training would supervise the paraprofessional (except parents). The level and frequency of supervision will vary depending upon the needs of the student, but clearly articulated with the paraprofessional. The individual providing SCIA support should be trained regarding what concerns should be reported and to whom.

Specialized Physical Health Care Services – These are written plans, included in the IEP for each procedure ordered by a doctor, and containing child-specific notes (e.g. gastrostomy-tube feeding ["g-tube"], catheterization, and suctioning). The individual providing SCIA support requires training to a level of competency to safely perform the procedure as determined by the nurse. The school nurse also will determine the level of supervision required, i.e. immediate, direct or indirect.

Emergency Plan – These plans are also included in the IEP and describe procedures to follow under certain specific conditions, i.e. seizures, asthma attack, anaphylactic shock and cardiac emergencies. Training for the paraprofessional would include specific steps to be followed in an emergency (e.g. signs and symptoms of an emergency, how to deal with the immediate problem, when to call 911, who to inform, etc.).

Behavior – The individual providing SCIA support should be very familiar with the student's behavior plan and specific strategies to use with the student in various circumstances. Supervision of the individual providing SCIA support would normally be provided by the classroom teacher or other person who developed the plan. If there is a potential for physical contact to be necessary in order to insure safety, training in a SELPA-approved non-violent crisis prevention strategies such as TCI, CPI, etc. should be provided. The SELPA or district periodically provides such approved trainings.

Specific Instructional Strategies - In general, training would be provided by a district staff person with expertise in the particular program or strategy to be used with the student, or the student's Case Manager. For sign language, the individual should already be certified, but might require additional training on the specific needs of the student.

POSITIVE BEHAVIORAL INTERVENTIONS

Policy:

It is the policy of the North Santa Cruz County Special Education Local Plan Area ("SELPA") that all children be provided educational opportunities that promote the development of each student's potential in a safe and healthy environment.

Further, it is the policy of the SELPA to ensure the rights of students with disabilities to have educational programs that provide for continuing growth and development in an atmosphere that respects their dignity and personal privacy.

Student patterns of pervasive and maladaptive behaviors which significantly hinder development and require systematic and frequent application of behavioral intervention shall be addressed by trained and qualified education staff taking into consideration the student's physical freedom and social interaction.

Behavioral intervention strategies shall be developed which promote sustained positive changes. No intervention method shall be employed that causes pain or trauma. When writing a Behavior Intervention Plan ("BIP"), each IEP team shall include practices and procedures which motivate and support positive ways of working with students with disabilities.

The vast majority of behavioral difficulties can be prevented with implementation of appropriate classroom management techniques. For individual students who develop mild to moderate behavioral patterns that do not respond to typical classroom management strategies, behavioral goals and/or informal behavior plans are indicated. Students who exhibit serious behavioral concerns may require more formal intervention. Both informal and formal behavior intervention must be included in the IEP for students whose behavior impedes their learning or that of others (E.C. §56341.1(b)(1)).

References:

California Education Code §56520 – 56524

California Code of Regulations 3001, 3052

PROCEDURES REGARDING POSITIVE BEHAVIORAL INTERVENTIONS

Introduction

Regulations, procedures and forms have been developed by the North Santa Cruz County SELPA in response to the requirement to provide positive behavior intervention for special education students. These procedures are meant to provide uniform implementation of Education Code §56520-56524.

Creating a Positive Classroom Environment

The most effective intervention is prevention. This level of intervention involves the use of effective instructional approaches and classroom management systems. Interventions are either preventative or employ typical classroom techniques for encouraging and teaching appropriate behavior. The classroom teacher may need to seek the assistance of colleagues, administrators, mentor teachers, the school psychologist, or a program specialist for assistance in developing a positive classroom environment.

Behavioral Interventions, Supports, and Strategies

Creating a positive classroom environment promotes and encourages appropriate behavior for most students. Individual students, however, may develop problematic behaviors that impede their learning and/or the learning of others. In this case, the IEP team must consider the use of positive behavioral interventions, supports, and strategies to address that behavior (E.C. § 56520(b)(1); 20 U.S.C. § 1414 (d)(3)(B)(i); and 20 U.S.C. § 1414(d)(4)). The IEP Team shall consider these matters when reviewing an IEP. The IEP Team may address the behavior through annual goals in the IEP, program modifications, support for teachers, and any related services necessary to achieve behavioral goals in the IEP.

The student's case manager consults with the school psychologist or other qualified staff to determine if these behaviors are serious. If they are not serious but could become serious, behavioral goals may be written to assist the student in learning more appropriate behaviors. If it is determined that the behaviors are serious, a behavioral assessment may be considered and/or conducted and a Behavior Intervention Plan (BIP) developed. Alternately, a student may exhibit sudden, unpredictable behavior that poses a clear and present danger of serious property damage or physical harm to the student or others. An interim BIP must be developed while further assessment is considered and/or conducted to determine whether a systematic BIP is necessary. Any type of behavioral intervention, support, or strategy that is used, should consider the student's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and ensures a student's right to placement in the least restrictive environment (E.C. § 56520(b)(3))

IEP Team Considerations for a Student Whose Behavior Impedes Learning

A. Behavioral Goals

When an IEP team has identified behavior as an area of need (even though it may not yet be serious), legal mandates require that present levels of academic achievement and functional performance along with a corresponding goal be developed. The purpose of a behavioral goal is to achieve general positive behaviors, (e.g., turn in work, stay on task, etc.) or the reduction or elimination of a problem behavior (e.g., hitting, getting out of seat, fighting at recess, etc.).

Under IEP notes, consider describing the IEP team discussion. An example of such notes may be as follows: "The IEP team has concluded that John does not yet demonstrate behavior that impedes his learning or that of others, however, the team believes that the identified behavior should be addressed to prevent it from becoming more serious. Two behavioral goals were added to the IEP and John's progress in this area will be carefully monitored. If necessary, a behavior plan will be developed in the future."

B. Developing the Behavior Intervention Plan ("BIP")

When an IEP Team is developing a BIP, the following procedures should be followed:

1. The school psychologist or other qualified staff, in collaboration with the IEP team, assesses the student's behavioral needs through reviewing student records, conducting interviews, and conducting observations;
2. Using this information the IEP Team completes a draft of each section of the SELPA-approved BIP form in preparation for the development of the final BIP;
3. An IEP Team meeting is held and the plan is finalized;
4. The plan is attached to the initial, annual, triennial, amendment IEP as appropriate;
5. The plan is implemented and reviewed as agreed upon;
6. The plan is revised as necessary.

Prohibitions

The following interventions or any other interventions similar to them are prohibited, unless otherwise permitted by law:

- Any intervention designed to, or likely to, cause physical pain;
- Noxious, toxic or otherwise unpleasant sprays, mists, or substances released in proximity to the student's face;
- Denial of adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
- Verbal abuse, ridicule, sarcasm, humiliation, or negative comments that can be expected to cause excessive emotional trauma;
- Use of a device, material, or objects which simultaneously immobilize all four extremities, including the procedure known as prone containment, (except that

prone containment may be used by trained personnel as a limited emergency intervention);

- Locked seclusion;
- Any intervention that precludes adequate supervision of the student; and
- Deprivation of one or more of the student's senses.

C. Functional Behavior Assessment (“FBA”)

The term Functional Behavior Assessment (FBA) was first added to the IDEA in 1997 but was not defined. An FBA is generally understood to be a systematic observation of a student to determine antecedents and consequences of a behavior. An FBA is not required prior to the development and implementation of an informal behavior plan.

An FBA must be conducted when school authorities seek to change the placement of a student with a disability because of a violation of a code of student conduct, **and** the IEP Team determines that the conduct was a manifestation of the student’s disability, **and** the LEA has not conducted an FBA prior to such determination before the behavior that resulted in the change of placement (i.e., possible expulsion or suspensions beyond 10 days in a school year) (34 C.C.R. § 300.530(f)(1)).

An FBA must be conducted, as appropriate, in cases of disciplinary removals involving a change in placement in which the IEP Team determines that the conduct **was** not a manifestation of the student’s disability.

An FBA should be considered and/or conducted if additional data is needed to develop a BIP or the IEP Team determines it would be appropriate for the student. Parental consent is required before an FBA may be conducted.

Personnel conducting the FBA shall gather information from multiple sources which may include:

- Direct observation;
- Interviews with significant others;
- Review of available data, such as assessment reports prepared by other professionals and other individual records.

To maintain evidence-based alignment, an FBA may include the following:

- Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
- Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;
- Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the student, i.e., to identify the specific environmental or physiological outcomes produced by the behavior, or the communicative intent of the behavior;
- Identification and analysis of the settings where the behavior(s) occurs;

- Identification of the function the behavior serves for the student, (i.e.; sensory, escape, attention, social, tangible, etc.);
- Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider include the physical setting, social setting, activities and nature of instruction, scheduling, quality of communication between the pupil and staff and other students, degree of independence, degree of participation, amount and quality of social interaction, degree of choice, and variety of activities;
- Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet);
- Review of the history of the behavior to include the effectiveness of previously used behavior interventions;
- Identification of one or more replacement behaviors and its current frequency.

D. Functional Behavioral Assessment Report

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

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

E. Behavior Intervention Plan as a Result of an FBA

A Behavior Intervention Plan as a result of an FBA shall include all of the following:

1. A summary of relevant and determinative information from the FBA report;
2. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
3. The student's goals and objectives specific to the BIP; and
4. A detailed description of the behavioral interventions to be used and the circumstances for their use. Based upon the results of the FBA, positive programming for behavioral intervention may include the following strategies:
 - Altering the identified antecedent event to prevent the occurrence of behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum, removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the student);
 - Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior (e.g., teaching the student to make requests or protests using socially acceptable behavior, teaching the student to participate with

alternative communication modes as a substitution for socially unacceptable attention-getting behaviors providing the students with activities which are physically stimulating as alternatives to stereotypic, self-stimulatory behaviors);

- Teaching the student adaptive behaviors (e.g., choice-making self-management, relaxation techniques, and general skill development) which ameliorate negative conditions that promote the display of inappropriate behaviors;
- Manipulating the consequences for the display of targeted inappropriate behaviors and alternative, acceptable behaviors so that it is the alternative behaviors that more effectively produce desired outcomes (i.e. "positively reinforcing alternative and other acceptable behaviors and ignoring or redirecting unacceptable behaviors).

Acceptable Responses

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

- The behavior is ignored, but not the student;
 - The student is verbally and/or physically redirected to an activity, or an acceptable behavior;
 - The student is provided with feedback (e.g., "You are talking too loudly.")
 - The message of the behavior is acknowledged" (e.g., "You are having a hard time with your work.");
 - A brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction;
 - Time-away may be used in anticipation of a targeted behaviors occurrence allowing for the student to regain the ability to participate in a group.
5. Specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;
 6. Criteria by which the procedure will be faded or phased out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;
 7. Extent to which the behavioral interventions will be used in the home, residential facility, work site or other settings;
 8. Specific dates for periodic review by the IEP team of the efficacy of the program.
- Baseline measure of the frequency, duration, and intensity of the targeted behavior, taken during the FBA. Baseline data shall be taken across activities, settings, people, and times of the day. The baseline data shall be used as a standard against which to evaluate intervention effectiveness;
 - Measures of the frequency, duration, and intensity of the targeted behavior shall be taken after the behavioral intervention plan is implemented at scheduled intervals determined by the IEP team. These measures shall also be taken across

activities, settings, people, and times of the day, and may record the data in terms of time spent acting appropriately rather than time spent engaging in the inappropriate behavior;

- Documentation of program implementation as specified in the behavioral intervention plan (e.g., written instructional programs and data, descriptions of environmental changes); and
- The teacher, the behavioral case manager, parent or care provider, and others as appropriate, will review measures of program effectiveness at scheduled intervals as determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.

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

F. Requirements and Considerations Following the use of Emergency Interventions

Emergency interventions may be used only to control unpredictable, spontaneous behavior that pose clear and current danger of serious physical harm to the student or others, or serious property damage, and which cannot be prevented immediately by a response less restrictive than the temporary application of a technique used to contain the behavior.

1. Emergency interventions shall not be used as a substitute for systematic behavioral intervention plans which are designed to change, replace, modify, or eliminate a targeted behavior.
2. Whenever a behavior emergency occurs, only behavioral emergency interventions approved by the Special Education Local Plan Area (SELPA) may be used.
3. No emergency intervention shall be employed for longer than is necessary to contain the behavior or an amount of force that exceeds that which is reasonable and necessary under the circumstances.
4. Any situation which requires prolonged use of an: emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, (i.e., call 911), as applicable to the situation.
5. Acceptable Emergency Response Options – shall include *but are not limited to*:
 - Immediate separation from the group (i.e. time out or removing the group from the student);
 - A brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction;
 - The restraint procedure known as Prone Containment may be used only by personnel trained in the procedure.
6. Unacceptable Emergency Response Options include the following or any other intervention similar to them, unless otherwise permitted by law:

- Any intervention designed to or likely to, cause physical pain;
- An intervention that involves the release of noxious, toxic or otherwise unpleasant sprays, mists, or substances released in proximity to the face of the individual;
- An intervention that denies of sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
- An intervention that is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule, sarcasm, humiliation, or negative comments that can be expected to cause excessive emotional trauma;
- Restrictive interventions that employ a device, material, or objects which simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention;
- Locked seclusion;
- An intervention that precludes adequate supervision of the student; or
- An intervention that deprives one or more of the student's senses.

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent/guardian, and/or residential care provider, shall be notified within one (1) school day if an emergency intervention is used or serious property damage occurs. A Behavior Emergency Report (BER) shall immediately be completed and forwarded to the designated administrator for review. A copy shall be maintained in the student's file and forwarded to the SELPA office.

G. Behavior Emergency Report (BER)

A Behavior Emergency Report includes all of the following:

- Name and age of the student;
- Setting and location of the incident;
- Name of the staff or other persons involved;
- Description of the incident, the emergency intervention used, and whether the student is currently engaged in any systematic behavioral intervention plan; and
- Details of any injuries sustained by the pupil or others, including staff, as a result of the incident.

Anytime a Behavior Emergency Report is written regarding a student who does not have a behavioral intervention plan, the administrator shall, within two (2) days, schedule an IEP Meeting.

The purpose of the meeting is to:

- Review the student's current IEP;
- Review the behavior emergency report;

- Determine the necessity for a functional behavior assessment;
- Determine the necessity for an interim behavior intervention plan; and
- The IEP Team shall document the reasons for not conducting a functional behavior assessment, not developing an interim plan, or both.

Anytime a Behavior Emergency Report is written regarding a student who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective, a referral to the IEP team shall be made to review and determine if the incident constitutes a need to modify the BIP.

Copies of Behavior Emergency Reports are collected by the SELPA Administrator.