

West End SELPA

Procedural Manual

Spring 2017



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There's A child in Everything We Do!

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Chapter 1

IDENTIFICATION AND REFERRAL

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Introduction

The referral for special education assessment is the first step taken when it is suspected that a student will require special education supports and services to be successful in the educational system. Parents, guardians, teachers, agencies, appropriate professionals, and other members of the public can make referrals. Once submitted, the referral initiates timelines that are specified in the California Education Code. The purpose of the referral process is to afford the assessment team the opportunity to review the referring party's identified areas of concern, previous attempts in program modification, relevant educational history, and other pertinent student information to determine areas in need of assessment.

The governing boards of the West End Special Education Local Plan Area (SELPA) assure an ongoing effort to identify all individuals with disabilities including infants, children for whom English is not a primary language, students with low incidence disabilities, students attending private schools, children from families that are highly mobile, and children who are suspected of having a disability and in need of special education even though they are advancing from grade to grade.

The West End SELPA works closely with public agencies such as Inland Regional Center, Head Start, California Children's Services, Behavioral Health, and others as appropriate in the identification of individuals with disabilities. Materials are distributed to pediatricians, health care professionals, and other agencies within the SELPA.

Each local education agency within the West End SELPA has established procedures for the identification, location, and evaluation of students who may require special education services. Information regarding child find activities is included in the annual notice that is distributed to parents of all children.

Section A – Child Find

EC 56300 Each district, special education local plan area, or county office shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, who reside in the district or are under the jurisdiction of a special education local plan area or a county office.

It is the policy of the West End Special Education Local Plan Area (WESELPA) that students with disabilities ages birth through 21 be actively sought and identified by the public schools. The Child Find process includes a section of the districts' annual notification to all parents that references the referral of students suspected of having a disability and those identified as having a disability. Child find information regarding children ages birth to three is distributed to hospitals, doctors' offices, and pertinent agencies through cooperation with the Local Interagency Coordination Council, Early Start, and other agencies. All individuals suspected of/identified as having exceptional needs and their parent(s) are guaranteed their procedural safeguards with regard to identification, assessment, and placement in special education programs.

School personnel, parents, outside agencies working with the student, guardians, and/or surrogate parents who show legal documentation of educational rights may all serve as sources of referral for a student for possible identification as an individual with exceptional needs. Such identification procedures shall be

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coordinated with school site and district procedures for referral of students with needs that cannot be met with modification of the general education instructional program.

Infants, birth to three years, are referred directly by the district, parent, doctor, or agency to the Early Start Program at Inland Regional Center. Intake information precedes the assignment of staff for assessment and the coordination with other agencies. If an infant has a solely low incidence disability, such as hearing loss, vision loss, or orthopedic handicap, the infant should be referred directly to the San Bernardino County operated Early Start program. An Early Start Program Referral Form is completed, which begins the assessment process timeline.

Section B – Parent Referrals

EC 56301(d)(1) Each special education local plan area shall establish written policies and procedures pursuant to Section 56205 for use by its constituent local agencies for a continuous child find system that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

All referrals for special education and related services shall initiate the process to determine if an assessment is warranted and shall be documented. When a verbal referral is made, staff of the local education agency shall offer assistance to the parent or any other individual to make a request in writing. Parents, whose primary language is not English, shall be informed both verbally and in writing in their primary language, unless to do so is clearly not feasible. Written referrals in languages other than English will be accepted. The West End SELPA shall annually distribute information regarding child find activities to private schools for dissemination to parents.

If a parent requests, in writing, an assessment for possible special education services, the assessment team will develop an assessment plan and present it to the parent within 15 days. A copy of the Parental Rights and Procedural Safeguards are reviewed and given to the parents at the time the assessment plan is presented. The parent has 15 days from receipt of the assessment plan to provide permission to complete the assessment process. Assessments may begin immediately upon receipt of the signed plan.

Under Education Code Section 56344(a), an individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each local educational agency's school calendar for each pupil for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 60-day time shall recommence on the date that pupil schooldays reconvene. A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations.

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Infant: Birth to Three Years

If a parent refers an infant, birth to three years, to a district for possible special education services, they are referred directly to the Early Start Program at Inland Regional Center. If it is clearly evident that the infant has a solely low incidence disability, such as hearing loss, vision loss, or orthopedic disability, the parent is referred directly to San Bernardino County operated Early Start program. At this time, an Early Start Program Referral Form is completed, and the timelines for the referral process begin.

Section 504

Students may be referred for assessment under Section 504 of the Rehabilitation Act of 1973 by parents, guardians, school staff, or agency. Each district has defined written Section 504 procedures to assess and meet the educational needs of general education students who are otherwise disabled due to a physical or mental impairment which substantially limits one or more major life activities.

Procedures for Processing Referrals

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 shall offer assistance to the individual to make a request in writing and shall assist the individual if the individual requests such assistance. (CCR Title 5, 3021(a))

Whenever a concern regarding a child's development and the possible need for special education services is identified, an Initial Referral for Assessment Form (WESELPA 002A) shall be completed. See WESELPA 002A located at the end of this chapter. WESELPA 002A is maintained in the SEIS Document Library. All referrals shall be documented and logged using the district approved method for recording such referrals.

All initial referrals resulting from Child Find of children younger than school age shall be processed through the district special education office. The Initial Referral for Assessment Form shall be completed by the person interacting with the parent and forwarded to the appropriate member of the district preschool assessment team (i.e., psychologist, nurse, speech-language pathologist).

Whether a Child Find referral on a school-aged child is received at the district special education office or school site, the Initial Referral for Assessment Form shall be completed. If the form is completed at the district office, it shall be logged and a copy forwarded to the Student Study Team (SST) chairperson at the student's school of attendance. If the referral is received at the school site, the person receiving the call shall complete the form and provide the information to the SST chairperson to log in the school referral book.

In all cases, the referring party shall be contacted within fifteen (15) calendar days of the referral to clarify their concerns and determine the appropriate actions.

For a preschool-aged child, a member of the district preschool assessment team will contact the child's parent/guardian. The team member's action may be a referral to First Class, a parent conference to discuss concerns, or a home visit to observe the child. For children under the age of three years, see the Early Start Program Referral Form located at the end of this chapter.

For a school-aged child, the team member's action may include a referral to the Student Study Team and/or the scheduling of a parent conference to discuss the concerns and possible interventions. If the parent specifically requests, in writing, that their child be assessed to determine eligibility for special education program services, a SST meeting shall be held within fifteen (15) days to identify the areas of suspected disability and if appropriate, develop an assessment plan. A proposed Assessment Plan and a copy of the Parental Rights and Procedural Safeguards shall be presented to the parent within fifteen days of their

request for assessment. The proposed assessment may include a classroom observation, review of records, informal screening, and/or a referral for a formal evaluation in suspected areas of disability, such as, but not limited to, vision/hearing, speech-language, academic skills, cognition, adaptive behavior, psychological processing skills, and/or social-emotional-behavioral status. Parents have fifteen days from receipt of the plan to give approval for administration of the assessment plan.

Section C – The Student Study Team (Or as Designated by the District)

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, where appropriate, utilized.

Procedures have been developed in the individual districts for the receipt and processing of referrals for special education assessment. In all districts, the school site Student Study Team (SST) meets regarding students for whom there are concerns. The team addresses the implementation and level of success of the general education classroom program interventions and available general education resources and programs, including categorical programs. When the Student Study Team determines that all possible interventions, accommodations or modifications have been exhausted, or the interventions, accommodations and/or modifications available are not appropriate, the Student Study Team or classroom teacher refers the student for an assessment for possible special education services. The parent is informed and encouraged to be a part of the Student Study Team process. Parents are notified if a referral for a special education assessment is made by the team.

The Student Study Team, or as designated by the district, is a regularly scheduled, structured meeting of general educators, supported by special education and other staff as appropriate. Their purpose is to provide an effective support system in general education that will generate effective interventions for students who are experiencing challenges in learning or behavior difficulties at school. The Student Study Team process is designed to meet the needs of all students and result in a team action plan to ensure student success. The structure of the Student Study Team may be designed to fit the needs of individual school sites. Team membership varies according to the needs of the student, but should include the people that can best support the student and the classroom teacher. The majority of the team membership must be composed of general education teachers and should include the following team members: the student's classroom teacher(s), an administrator, the parent(s), the student, and in the case of an elementary school student, an upper grade teacher, and a lower grade teacher. When appropriate, specialists and any others potentially providing support to the student, should be included.

The Intervention process begins with a request from a teacher, counselor, parent, agency representative, or student that a concern has been identified. Once the request is made, the school's first-level intervention plan is implemented. It is important to note that a request does not automatically initiate a SST meeting. If the concerns can be resolved without a SST meeting, then the student is monitored for successful progress. If the concerns are not resolved, SST meeting preparation is started. For the team to have optimum information to consider, the student's teacher should provide essential information about the student to the SST team. During the meeting, a group memory format is an effective practice to utilize to assist the team in efficient documentation of ideas generated during the meeting. The team will develop an action plan that shall include a follow-up meeting to review the progress of the student for whom there are concerns. The

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action plan should be evaluated at this meeting and a determination made if any further follow-up is necessary. See forms located at the end of this chapter.

EC 56325(a)(1) *As required by subclause (I) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from district to district within the state. In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a 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 local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law.*

(2) *In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district operating programs 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 individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with federal and state law.*

(3) *As required by subclause (II) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from an educational agency located outside the State of California to a district within California. In the case of an individual with exceptional needs who transfers from district to district within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, until the local educational agency conducts an assessment pursuant to paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code, if determined to be necessary by the local educational agency, and develops a new individualized education program, if appropriate, that is consistent with federal and state law.*

EC 56325(b)(1) *To facilitate the transition for an individual with exceptional needs described in subdivision (a), the new school in which the individual with exceptional needs enrolls shall take reasonable steps to promptly obtain the pupil's records, including the individualized education program and supporting documents and any other records relating to the provision of special education and related services to the pupil, from the previous school in which the pupil was enrolled, pursuant to paragraph (2) of subsection (a) of Section 99.31 of Title 34 of the Code of Federal Regulations.*

(2) *The previous school in which the individual with exceptional needs was enrolled shall take reasonable steps to promptly respond to the request from the new school. (c) If whenever a pupil described in subdivision (a) was placed and residing in a residential nonpublic, nonsectarian school, prior to transferring to a 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 nonpublic, nonsectarian school placement is 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.*

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Due to changes in IDEA 2004, the procedures for placing students who transfer from one district to another have changed. Districts now must look at whether the student is coming from within the same SELPA or outside the SELPA, and at whether they are coming from within the state or outside the state.

Students moving from one district within the West End SELPA to another district within the West End SELPA, within the same academic school year, shall be placed without delay in a comparable program based on the current, existing IEP. There is no requirement to hold a new IEP meeting unless the district and parent determine there is a need to develop a new IEP.

Students moving from a district outside the West End SELPA, but within the State, within the same academic year, with an existing IEP shall be placed in a comparable program for a timeline not to exceed thirty days. The student's program shall be based on the sending district's current goals and objectives with the appropriate supports and services. Within thirty (30) days, the receiving district must adopt the previous IEP, or develop and implement a new IEP.

Students moving from a district outside the state within the same academic year with an existing IEP shall be provided services comparable to those described in the previous IEP, until the district, if necessary, conducts an evaluation to determine if the student meets eligibility and identifies his/her educational needs, and develops a new IEP. If the district determines the need to conduct an evaluation, it is considered to be an initial evaluation.

In order to facilitate the transfer of a student transferring from another district, the new district must take steps to obtain the records relating to the provision of special education from the district where the student was previously enrolled. If the district is unable to obtain the IEP from the previous district or the parent, the district must place the student in a general education program and conduct an evaluation to determine eligibility and special education services.

At the interim IEP review meeting, all aspects of the IEP need to be reviewed. New goals and objectives can be developed or the previous ones continued if those goals continue to be in accordance with the student's needs. If the previous goals and objectives are accepted, the next annual review date must align with the previous goal review date.

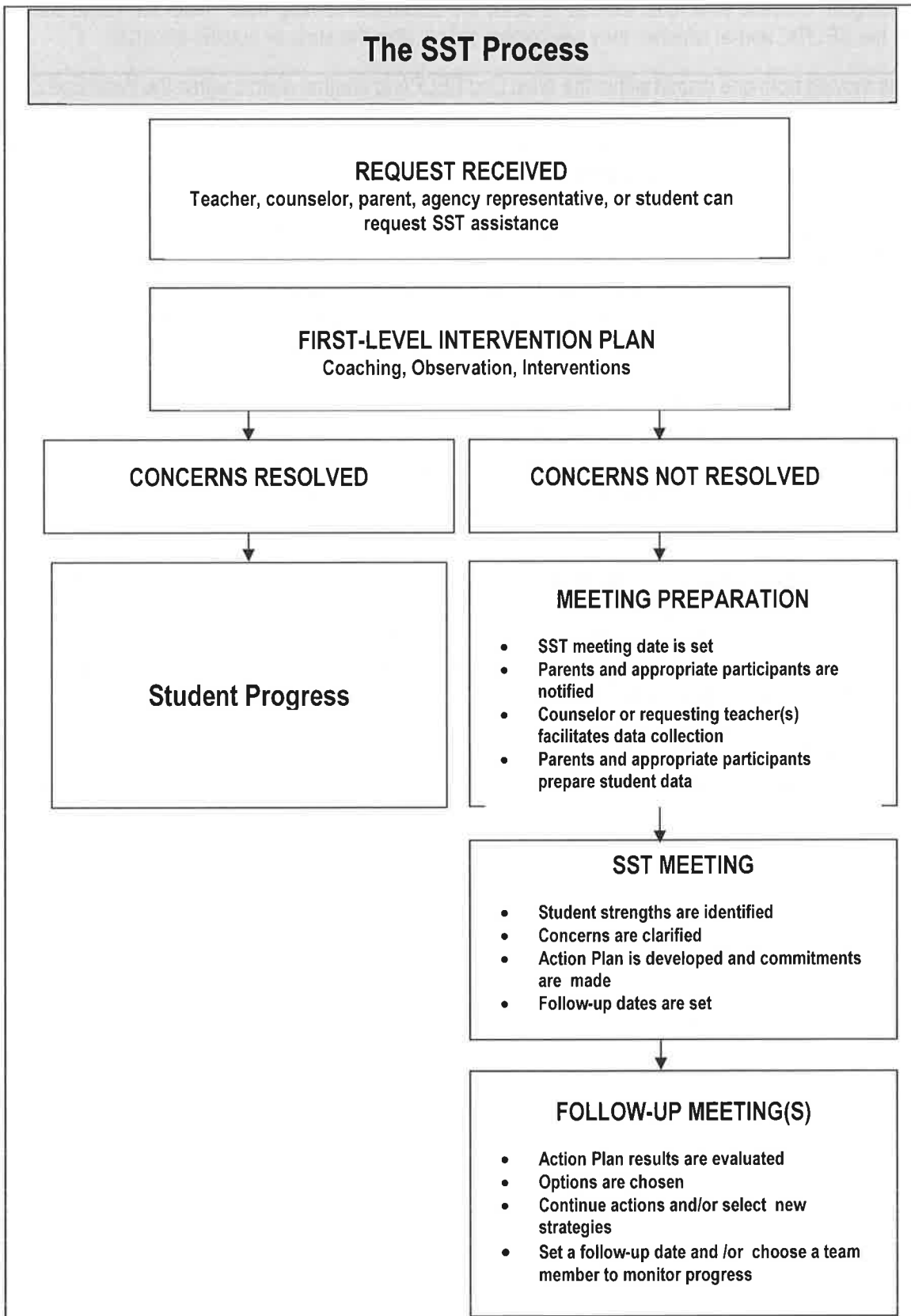
Resources:

Education Code

EC 2000, 56300, 56301, 56303, 56325, 49580, 49581, 49582

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The following describes the flow of the Student Study Team Process:



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West End Special Education Local Plan Area
Initial Referral for Special Education

Student Name: _____ DOB: _____ Ethnicity: _____ Sex: _____
Parent/Guardian: _____
Address: _____
Phone: H _____ W _____ C _____
Home Language: _____ Interpreter Needed: _____
Teacher: _____ School: _____ Grade: _____

STUDENT'S STRENGTHS, SKILLS AND INTERESTS:

- | | | |
|--|--|---|
| <input type="checkbox"/> Oral Communication | <input type="checkbox"/> Leadership skills | <input type="checkbox"/> Creative |
| <input type="checkbox"/> Strong reading skills | <input type="checkbox"/> Social interactions | <input type="checkbox"/> Artistic |
| <input type="checkbox"/> Strong math skills | <input type="checkbox"/> Good peer relations | <input type="checkbox"/> Musical ability |
| <input type="checkbox"/> Strong writing skills | <input type="checkbox"/> Attendance | <input type="checkbox"/> Critical thinking skills |
| <input type="checkbox"/> Attention span | <input type="checkbox"/> Class participation | <input type="checkbox"/> Gross motor skills |
| <input type="checkbox"/> Task Completion | <input type="checkbox"/> Inquisitive | <input type="checkbox"/> Fine motor skills |
| <input type="checkbox"/> Persists on difficult tasks | <input type="checkbox"/> Shows initiative | <input type="checkbox"/> Listens well |
| <input type="checkbox"/> Works independently | <input type="checkbox"/> Cooperative | <input type="checkbox"/> Resiliency |

AREAS OF CONCERN:

- | | | |
|---|---|--------------------------------------|
| Reading: | Math: | Written Language: |
| <input type="checkbox"/> Phonemic Awareness | <input type="checkbox"/> Computation | <input type="checkbox"/> Spelling |
| <input type="checkbox"/> Alphabetic principle | <input type="checkbox"/> Fluency | <input type="checkbox"/> Handwriting |
| <input type="checkbox"/> Fluency | <input type="checkbox"/> Word Problems | <input type="checkbox"/> Composition |
| <input type="checkbox"/> Vocabulary | <input type="checkbox"/> Time/Money/Measure | <input type="checkbox"/> Grammar |
| <input type="checkbox"/> Comprehension | | <input type="checkbox"/> Conventions |

- | | | |
|--|--|--|
| Behavior: | Language: | Processing: |
| <input type="checkbox"/> Attention | <input type="checkbox"/> Articulation | <input type="checkbox"/> Visual motor skills |
| <input type="checkbox"/> Organization | <input type="checkbox"/> Voice/Fluency | <input type="checkbox"/> Listening |
| <input type="checkbox"/> Social Competence | <input type="checkbox"/> Semantics | <input type="checkbox"/> Memory |
| <input type="checkbox"/> Compliance | <input type="checkbox"/> Syntax | <input type="checkbox"/> Sensory |
| <input type="checkbox"/> Mood | <input type="checkbox"/> Pragmatics | <input type="checkbox"/> Cognitive |

Other: _____

CURRENT ACADEMIC PERFORMANCE:

Subject:	Grade Level:	Subject:	Grade Level:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

CURRENT/PRIOR INTERVENTIONS:

Supplemental Instruction: _____
 504 Plan: _____
 SST: _____

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HEALTH AND FAMILY HISTORY

Date of school vision screening: _____ Results: _____ Glasses: _____

Date of school hearing screening: _____ Results: _____ Amplification: _____

Diagnosed medical or psychological conditions: _____

Medications:

Name of medication:

Purpose of medication:

Medical/Counseling Services:

Name of provider:

Purposes of Treatment:

Recent family problems/traumatic events/family stresses: _____

EDUCATIONAL HISTORY

Prior schools attended: _____

List grades in which student has been retained: _____

Current number of days student has been absent: _____ tardy: _____

Instructional Interventions Utilized:

Dates From - To	Targeted Area	Instructional Intervention	Results

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EARLY START PROGRAM

Referral Form

Today's Date _____

CHILD'S NAME _____ DOB _____

AKA _____ REFERRAL # _____

Referral Date: _____ **Referred by:** _____

Phone: _____ **Parents Informed of Referral:** Yes No

Referral Source: Parent Physician Family Resource Center (FRC) CA Children's Services (CCS)
 Child Health & Dev Program County Health Dept. County Behavioral Health Child Care Provider
 Dept. Public Social Service County Welfare (DPSS) Local Education Agency (LEA) Private Service Agency
 Maternal Child Health Contract (MCH) Child Protective Services (CPS) Hospital Discharge Planning Team
 Other _____

SS#: _____ **MIS/UCI#:** _____ **SEX:** _____

Parents/Guardian/Foster: _____ **Home District:** _____

Address: _____
 (List both street and mailing address if different)

Phone: _____ / _____ / _____
 (Home) (Message) (Work)

Living with: Parent Foster Licensed Children's Institution **Educational Rights:** Yes No

No educational rights, contact address: _____
 (List name and both Street & Mailing Address if Different)

Child Language: English Spanish **Home Language:** English Spanish **Ethnicity:** Cauc Hisp Blk
Other: _____ **Other:** _____ **Other:** _____

Reasons for Referral: Hearing Speech/Language Physical Vision Medical Dev. Delay

Other Reasons: _____

Primary Physician: _____ **Phone:** _____

Diagnosis: _____

Other Agency Involvement: _____

Previous Program: Yes No **IFSP/IEP:** Yes No

Name: _____

Referral Denial **SENT TO:** Parent School IRC CCS DPSS
 Private Programs Behavioral Health Public Health

Completed by: _____ Agency: _____
 (Name) (Title)

Phone Number: _____ Date Sent: _____

Attention to: _____

Caseworker/Teacher: _____ Case #: _____

Date Opened/Assessed: ____ / ____ / ____ **IRC Caseload:** ____

CONFIDENTIAL CLIENT INFORMATION

CHAPTER 1 IDENTIFICATION AND REFERRAL

Date of Last Assessment?	
Agency: _____	_____ See Attached Reports
By: _____	_____ REEL _____ DDST
Assessment Tools: _____ Bayley _____ Michigan _____ Koontz	_____ REEL _____ DDST
Other: _____	_____
Chronological Age: _____	Adjusted Age: _____

FUNCTIONING LEVELS:

COMMENTS:

Fine Motor:

(Uses pincer grasp, thumb and first finger to pick up raisin or small object – 11 mo. Holds crayon with fingers and scribbles – 23 mo. Cuts with scissors – 36 mo.)

Cognitive:

(Imitates body action on doll, pats the baby appropriately – 12 mo. Recognizes four or more pictures from picture card book or magazine – 24 mo. Repeats two digits – counts or says some numbers – 36 mo.)

Language:

(Imitates words, uses two words meaningfully – 12 mo. Uses three word sentences, "me go bye bye"- 24 mo. Answers questions about body functions. "what do you hear with? See with? – 35 mo.)

Self Care:

(Feeding: Feeds self with spoon quite often, drinks from cup, some spills – 12 mo.)
(Toileting: Stays dry 1½ - 2 hrs – 12 mo. Begin toilet training – 24 mo. Toilet trained – 36 mo.)
(Dressing: Pulls off socks or cap – 12 mo. Puts on simple clothes alone, like hat, pants, some easy shoes – 24 mo. Can undo large buttons, snaps or shoelaces – 36 mo)

Social-Emotional:

(Plays pat-a-cake or peek-a-boo – 12 mo. Some pretend play, being asleep, using telephone, vacuuming – 24 mo. Shares toys when adult asks him/her to give up a toy – 35 mo.)

Gross Motor:

Walks alone – 12 mo. Goes up and down stairs alone, jumps off low step or curb – 24 mo. Operates and/or rides a tricycle – 36 mo.)

Section D – Interim Placement

EC 56325 (a) (1) As required by subclause (I) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from district to district within the state. In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a 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 local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

(2) In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district operating programs 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 individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

(3) As required by subclause (II) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from an educational agency located outside the State of California to a district within California. In the case of an individual with exceptional needs who transfers from district to district within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, until the local educational agency conducts an assessment pursuant to paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code, if determined to be necessary by the local educational agency, and develops a new individualized education program, if appropriate, that is consistent with federal and state law.

Due to changes in IDEA 2004 the procedures for placing students who transfer from one district to another have changed. Districts now must look at whether the student is coming from within the same SELPA or outside the SELPA, and at whether they are coming from within the state or outside the state.

Students moving from one district within the West End SELPA to another district within the West End SELPA, within the same academic school year, shall be placed without delay in a comparable program based on the current, existing IEP. There is no requirement to hold a new IEP meeting unless the district and parent determine there is a need to develop a new IEP.

Students moving from a district outside the SELPA, but within the State, within the same academic year, with an existing IEP shall be placed in a comparable program for a timeline not to exceed

CHAPTER 1 IDENTIFICATION AND REFERRAL

thirty days. The student's program shall be based on the sending district's current goals and objectives with the appropriate supports and services. Within thirty days, the receiving district must adopt the previous IEP, or develop and implement a new IEP.

Students moving from a district outside the state within the same academic year with an existing IEP shall be provided services comparable to those described in the previous IEP, until the district, if necessary, conducts an evaluation to determine if the student meets eligibility and identifies their educational needs, and develops a new IEP. If the district determines the need to conduct an evaluation, it is considered to be an initial evaluation.

In order to facilitate the transfer of a student transferring from another district, the new district must take steps to obtain the records relating to the provision of special education from the district where the student was previously enrolled. If the district is unable to obtain the IEP from the previous district or the parent, the district must place the student in a regular education program and conduct an evaluation to determine eligibility and special education services.

At the interim IEP review meeting, all aspects of the IEP need to be reviewed. New goals and objectives can be developed or the previous ones continued if those goals continue to be in accordance with the student's needs. If the previous goals and objectives are accepted, the next annual review date must align with the previous goal review date.

Resources:

EC 2000, 56300, 56301, 56303, 56325, 49580, 49581, 49582

California Education Code

Radius, M. and Lesniak, P. (1997), Student Success Teams: Supporting Teachers in General Education. California Department of Education.

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STUDENT SUCCESS PLAN

TEAM _____

SCHOOL _____

STUDENT _____ M _____ F _____ PRIMARY LANG _____ GR _____ BIRTHDATE _____ C.A. _____ PARENTS _____

STRENGTHS	INFORMATION	MODIFICATIONS	AREAS OF CONCERN (Choose)	QUESTIONS	STRATEGIES (Brainstorm)	ACTIONS (Choose)	RESPONSIBILITY Who? When?

Follow-Up Date

Chapter 1 Tables

Student Success Plan English

CHAPTER 1 IDENTIFICATION AND REFERRAL

MAESTROIA _____ ESCUELA _____ MIEMBROS DEL
EQUIPO _____ M _____ F _____ IDIOMA NATIVO _____ GRADO _____ FECHA DE NACIMIENTO _____
ALUMNOIA _____
C.A. _____ PADRES _____

PLANO DE EXITO ESTUDIANTIL

Habilidades Positivas	Lo Que Sabemos De Ella	Cambios Que Hemos Hecho	Areas Para Mejorar	Preguntas	Soluciones	Acciones	Quienes? Cuando?
							Fecha Para Proxima Junta

CHAPTER 1 IDENTIFICATION AND REFERRAL

SUMMARY FOR SST FOLLOW-UP MEETING

Student _____ Grade _____ Teacher/Counselor _____ Date _____

Date of last Meeting _____ Attended by _____

Areas of Concern _____

Actions (Selected at initial SST meeting)	Results/Outcomes	Further Actions (or continue initial action)	Who	When

Check one: Follow-up meeting _____ Date _____ Monitor _____ Who _____ How _____

Appendix A Special Education Process Timetable and Summary of Major Special Education Timelines West End Special Education Local Plan Area Special Education Process Timetable

STUDENT STUDY TEAM →	15 DAYS		60 DAYS				ASAP	1 YEAR		
	REFERRAL →	ASSESSMENT PLAN →	(AT LEAST 15 DAYS)	INFORMED CONSENT →	RECEIPT OF PARENT/GUARDIAN CONSENT →	MULTIDISCIPLINARY ASSESSMENT BEGINS →			IEP TEAM MEETING →	DEVELOPMENT OF IEP →
	By parents/guardians, teacher, doctor, agencies, etc. ↓	Give plan to parent/guardian for consent ↓	Assessment begins when parent/guardian permission is received	Notice of parent/guardian rights ↓	Assessment begins when parent/guardian permission is received	May include assessment of:	Determine eligibility for special education services (if eligible go to next column) ↓	Provide parent/guardian with notice of rights ↓	Provide instruction and necessary related services ↓	Review of IEP ↓
	Reason for referral ↓	Reason for assessment ↓		Parent/guardian permission to test ↓		Academic/preacademic achievement ↓		Develop goals/objectives ↓		Teacher(s)/Specialist(s) Report(s) ↓
		Areas to be assessed ↓				Social/emotional/adaptive behavior ↓		Determine related services needed ↓		Modify or add goals/objectives ↓
		Type of tests or procedures to be used ↓				Psychomotor development ↓		Determine placement ↓		Parent/guardian consent ↓
		Who will conduct assessments ↓				Communication development ↓		Obtain parent/guardian consent ↓		Notice of Rights ↓
						Intellectual development ↓				
						Vocational/career development ↓				
						Other (e.g. audiological, health, vision, hearing, independent assessments, etc.) ↓				

*The granting of consent for assessment and/or placement may be revoked at any time. Your written consent must be obtained before assessment can begin. You must be given, in writing, a proposed assessment plan within 15 calendar days of the referral for assessment.

CHAPTER 1 IDENTIFICATION AND REFERRAL

SUMMARY OF MAJOR SPECIAL EDUCATION TIMELINES

Timeline ¹	Action	Time Counted From	Exceptions to Timeline
15 days	Proposed Assessment Plan	Date of Referral	Not counting calendar days between regular school sessions/term or days of school vacation in excess of five school days, unless parent agrees in writing to an extension. When referral is made in the last ten days of school, the proposed assessment plan must be provided within the first ten days of the start of the new year.
15 days	Parent consideration and decision regarding proposed assessment plan	Receipt of proposed assessment plan	
“Early enough to ensure an opportunity to attend”	IEP Notification	Before IEP team meeting	
60 days	IEP Development	Receipt of parent’s written consent for assessment	Not counting calendar days between regular school sessions/term or days of school vacation in excess of five school days, unless parent agrees in writing to an extension. When referral is made 30 days or less prior to the end of the regular school year, IEP must be developed within 30 days after the start of the subsequent regular school year.
“As soon as possible”	IEP Implementation		
30 days	IEP Team Meeting	Receipt of written request from parent for IEP team meeting. (If parent makes oral request, school district must notify parent of the need for a written request and the procedures for filing written request.)	Not counting calendar days between the pupil’s regular school session, terms, or days of school vacation in excess of five school days, from the date of the receipt of the parents written request.
30 days	Interim Placement Reviewed by IEP Team and Final Recommendation Made by Team	Date of last IEP team meeting.	
At least annually	Review: <ul style="list-style-type: none"> • Student’s program; • The IEP, including whether annual goals are being achieved; • Appropriateness of placement; and make any necessary revisions 	Date of last IEP team meeting	
5 working days	Parent Receive Copies of student Records	Oral or written requests by parent	

CHAPTER 1 IDENTIFICATION AND REFERRAL

Timeline ¹	Action	Time Counted From	Exceptions to Timeline
5 working days	Former LEA Sends Special Education Records	Request from current LEA	
3 years	Reassessment	Date of last three-year assessment and IEP	More frequently if conditions warrant it
When pupil demonstrates lack of anticipated progress	IEP Team Meeting		
Beginning at age 16 and annually thereafter	Statement of Needed Transition Services (coordinated set of activities, including statement of interagency responsibility and any needed linkages)		
6 months	Review IEP for student in residential placement by expanded IEP Team: <ul style="list-style-type: none"> • Case progress • Continued need for out-of-home placement • Extent of compliance with IEP • Progress toward alleviating need for out-of-home placement 	Previous IEP	
2 years	Filing for Hearing	Date the initiating party knew or had reason to know the facts underlying the basis for the request.	

1. "Day" means a calendar day unless otherwise specified

Initially Prepared by:
 Eloise S. Thompson
 Director of Special Education
 Alvord Unified School District
 July 7, 1999

Chapter 2

ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

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Introduction

Eligibility for special education is determined by the IEP team based upon a variety of sources of information. The student must be identified as meeting the criteria for one of the 13 handicapping conditions identified in CFR 300.8. and the student's disability must adversely affect the student's educational performance, such that the student is in need of special education services in order to benefit from his/her education. If a student only requires a related service and not special education, then the student is not a student with a disability, unless the related service is considered special education under state standards. In addition, a student may not be considered as having a disability if the reason for his difficulties is due to a lack of appropriate instruction or limited proficiency in English.

The IEP team shall take into account all assessment information and use no single score or product of scores as the sole criterion for making a decision regarding the student's eligibility for special education. Once the IEP team has made a determination that both of these areas are satisfied, a student may be identified as a student with exceptional needs. Processes and procedures for assessment are outlined in Chapter Two of this Procedural Manual.

A student remains eligible for special education and related services for as long as the student continues to have a disability and requires special education services. The IEP team must determine if a student is a student with a disability at least every three years. This entitlement remains in effect until the student reaches the maximum age for services, or when he/she graduates from high school with a regular high school diploma.

Education Code 56026 (c)(4)(A) (C) states any person who becomes twenty-two (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. A special education student shall not be allowed to begin a new fiscal year in a program if he or she becomes twenty-two (22) years of age in July, August, or September of that new fiscal year. However, if a student is in a year-round school program and is completing his or her IEP in a term that extends into the new fiscal year, then the person may complete that term. Any person who becomes twenty-two (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.

This chapter describes each of the disabling conditions as identified in CFR 300.8 and the criteria for meeting eligibility for special education services.

Section A – State Eligibility Criteria

CCR 3030

- (a) A child shall qualify as an individual with exceptional needs, pursuant to Education Code section 56026, if the results of the assessment as required by Education Code section 56320 demonstrate that the degree of the child's impairment as described in subdivisions (b)(1) through (b)(13) requires special education in one or more of the program options authorized by Education Code section 56361. The decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, including personnel in accordance with Education Code section 56341(b). The IEP team shall take into account all the relevant material which is available on the child. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the child's eligibility for special education.
- (b) The disability terms used in defining an individual with exceptional needs are as follows:
 - (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 (b)(4) 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 (b)(1) of this section are satisfied.
 - (2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.
 - (3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.
 - (4) Emotional disturbance 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 educational performance:
 - (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (C) Inappropriate types of behavior or feelings under normal circumstances.
 - (D) A general pervasive mood of unhappiness or depression.

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
 - (F) 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 under subdivision (b)(4) of this section.
- (5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.
 - (6) Intellectual disability means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.
 - (7) Multiple disabilities means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. "Multiple disabilities" does not include deaf-blindness.
 - (8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
 - (9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that:
 - (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, sickle cell anemia, and Tourette syndrome; and
 - (B) Adversely affects a child's educational performance.
 - (10) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The basic psychological processes include attention, visual processing, auditory processing, phonological processing, sensory-motor skills, and 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

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:

1. When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.
 2. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.
 3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:
 - (i) Data obtained from standardized assessment instruments;
 - (ii) Information provided by the parent;
 - (iii) Information provided by the pupil's present teacher;
 - (iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
 - (v) Consideration of the pupil's age, particularly for young children; and
 - (vi) Any additional relevant information.
 4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance.
- (C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

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

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

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.

- (11) 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.
- (12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely

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affects a child's educational performance. Traumatic brain injury 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.

- (A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

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

Note: Authority cited: Section 56100, Education Code. Reference: Sections 56026, 56320, 56333 and 56337, Education Code; 20 U.S.C. Sections 1401(3)(A) and 1414(a) and (b); and 34 C.F.R. Sections 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309 and 300.311.

Eligibility Requirements for Preschool Children. EC 6441.11

- (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.
- (b) A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria:
 - (1) Is identified as having one of the following disabling conditions, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):
 - (A) Autism
 - (B) Deaf-blindness
 - (C) Deafness
 - (D) Hearing impairment
 - (E) Mental retardation
 - (F) Multiple disabilities
 - (G) Orthopedic impairment
 - (H) Other health impairment
 - (I) Emotional disturbance
 - (J) Specific learning disability
 - (K) Speech or language impairment in one or more of voice, fluency, language and articulation
 - (L) Traumatic brain injury
 - (M) Visual impairment
 - (N) Established medical disability
 - (2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

- (3) Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an individualized education program team pursuant to Section 56431.
- (4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.
- (c) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:
 - (1) Unfamiliarity with English language
 - (2) Temporary physical disabilities
 - (3) Social maladjustment
 - (4) Environmental, cultural, or economic factors
- (d) For purposes of this section, "established medical disability" is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.
- (e) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

Section B – State Definition of Special Education

EC 56031 (a) "Special education," in accordance with Section 1401 (29) of Title 20 of the United States Code, means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education.

(b) In accordance with Section 300.39 of Title 34 of the Code of Federal Regulations, special education includes each of the following, if the services otherwise meet the requirements of subdivision (a):

(1) Speech-language pathology services, or any other designated instruction and service or related service, pursuant to Section 56363, if the service is considered special education rather than a designated instruction and service or related service under state standards.

(2) Travel training

(3) Vocational education

(c) Transition services for individuals with exceptional needs may be special education, in accordance with Section 300.43(b) of Title 34 of the Code of Federal Regulations, if provided as specially designed instruction, or a related service, if required to assist an individual with exceptional needs to benefit from special education.

(d) Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.

Section C – IEP Team Considerations

Specific Learning Disabilities

IDEA 2004 made significant changes to the process for determining whether a student has a specific learning disability, by removing the requirement for a discrepancy between intellectual ability and achievement and

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

allowing the use of a process that looks at whether the student responds to research based intervention. IDEA 2004 also specified additional procedures that are required when making the determination of a specific learning disability.

Determination of a specific learning disabilities is now a three-prong inquiry. First, it must be determined that when provided with learning experiences and instruction appropriate for the child's age or grade level, the student does not achieve adequately for their age, or meet state grade level standards in one or more of the following areas:

1. Oral expression
2. Listening comprehension
3. Written expression
4. Basic reading skill
5. Reading fluency skill
6. Reading comprehension
7. Mathematics calculation
8. Mathematics problem solving

Second, one of the following must be true::

1. The student does not make adequate progress to meet age or grade level standards in one of the areas above, when using a process based on the child's response to research based intervention. This process is commonly referred to as response to intervention (RTI)...or
2. The student demonstrates a pattern of strengths and weaknesses in performance, achievement, or both relative to their age grade level standards or intellectual development which is considered to be characteristic of a specific learning disability.

Third the student's difficulty may not be the result of any of the following factors:

1. a visual, hearing or motor disability
2. intellectual disability
3. emotional disturbance
4. cultural factors
5. environmental or economic disadvantage
6. limited English proficiency

When making a determination of a specific learning disability, there are additional procedures that are required in addition to the evaluation requirements outlined in Chapter 3. The team making the eligibility determination must analyze data regarding the student's instruction, conduct an observation of the student in the regular classroom and document their determination.

In order to ensure that the performance deficits of a student are not due to lack of appropriate instruction, the team is now required to consider data that demonstrates that the student was provided appropriate instruction by qualified personnel. They must also review the results of repeated, formal assessment of the student's instructional progress.

An evaluation of a student suspected of having a specific learning disability must also include an observation of the student in their learning environment, including the regular education classroom. This observation must document the student's academic performance and behavior in their areas of difficulty. This observation must be made by a member of the IEP team which determines eligibility. If a student is not school age or out of school, the observation must take place in an environment that is age appropriate.

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The IEP team determining that a student is eligible as a student with a specific learning disability must also document that decision in writing. The form for that documentation is found in the SEIS computerized IEP used by the districts in the West End SELPA, and is included in Appendix B of this chapter. Each member of the IEP team must certify their agreement with the determination; if any member does not agree they must submit a separate statement documenting their conclusions.

Emotional Disturbance

From 1997 to 1999, the West End SELPA established workgroups for the purpose of stating and clarifying the eligibility criteria that exists in the Local Plan. Excerpts from that document are included to provide further information and clarification for IEP teams while making decisions regarding a student's eligibility under the category of emotional disturbance. The cited definition consists of four distinct components:

1. ED as an emotional condition.
2. ED as manifested by one of the five characteristics.
3. ED as a set of three limiting criteria, all of which must be satisfied.
4. ED as inclusive of schizophrenia, but exclusive of social maladjustment.

1. Emotional Disturbance as a Condition

This provision helps clarify the critical point that for a student to be considered for ED, there must be a serious emotional condition from which any characteristic stems. A characteristic, in and of itself, does not constitute a serious emotional disturbance. Based on this concept, the sequence of investigation for ED eligibility should unfold as follows:

- | | |
|---------|--|
| First: | Identify and support the existence of an emotional condition. |
| Second: | Establish the presence of one or more of the five characteristics. |
| Third: | Analyze the characteristic to determine if it stems from the identified ED condition and is not primarily a manifestation of social maladjustment. |
| Fourth: | Verify that the characteristic meets the three limiting criteria. |

The critical aspect is rooted in the understanding that if there is no emotional condition, any characteristic the student may exhibit is irrelevant.

The ED workgroup is recommending the use of the "Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition" (DSM-V) as a primary reference in determining emotional condition. This allows for a common language with a set of descriptors and inclusive/exclusive criteria that can be used as a first step in the ED identification process.

It should be pointed out that identifying a condition is but the first step in the ED assessment process. Because a private psychologist identifies someone as having a DSM condition, does not make that person eligible as ED under current regulations. Nevertheless, it is a first step.

2. Emotional Disturbance as Manifested by One or More of Five Characteristics

The second of the four distinct components explicit in the ED criteria involves establishing the existence of one or more of five characteristics. Hence, in order to be further considered as eligible as ED, the IEP assessment team must establish the existence of at least one of the five characteristics defined below:

Characteristic 1: An inability to learn which cannot be explained by intellectual, sensory or health factors.

Discussion: The California Association of School Psychologists (CASP) published recommended practices for the identification and assessment of ED children. This document provides the following list of symptoms that offer possible ED related explanations for one's inability to learn:

1. Thought disorders, e.g., fragmented or disjointed thought
2. Disordered, as opposed to delayed, reasoning-perception-memory

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3. Incoherence, marked loosening of associations
4. Hallucinations, bizarre delusions
5. A weakened grasp on, or awareness of, reality

Assessment Considerations: This characteristic dictates the need for a comprehensive assessment that differentially rules out non-ED reasons for the inability to learn. It is based on the reasoning that if all other major causative factors have been ruled out, then the argument that the inability to learn stems from the identified emotional condition is supported or strengthened.

The California Department of Education published a manual in 1986 for educational and mental health professionals on the identification and assessment of the ED child. This document lists possible reasons for a child's inability to learn that should be considered as part of a comprehensive differential assessment. This list includes:

1. Speech and language disorders
2. Multiple handicaps
3. Hyperactivity
4. Hearing/vision problems
5. Motivational/behavioral deficits
6. Learned patterns of manipulations (e.g., avoiding homework)
7. Social and cultural factors

Characteristic 2: An inability to maintain satisfactory interpersonal relationships with peers and teachers.

Discussion: CASP lists the following descriptors of this characteristic:

1. Has no friends at home, at school, or in the community.
2. Does not voluntarily play, socialize, or engage in recreation with others.
3. Avoids communicating with teachers and peers.
4. Extremely fearful of teachers and peers.
5. Excessively aggressive or withdrawn if others intrude on his/her space.
6. If the student demonstrates extensive withdrawal or avoidance of a large number of persons or circumstances, and these tendencies do not stem from family tradition, emotional disturbance is suspected.
7. Schizophrenia is a severe form of emotional disturbance and is characterized by severe withdrawal, disorganization, lack of affect, and distorted emotional reaction. In some instances, auditory and/or visual hallucinations develop.
8. Regression is another form of withdrawal seen in some students. Children are seen to regress when they utilize patterns of behavior under stress that they had previously abandoned. The child may cry readily, resume the abandoned habit of thumb sucking, engage in baby talk, have temper tantrums, wet his/her pants, or do whatever has been successful in obtaining attention and affection.

Assessment Considerations: This characteristic must be demonstrated to be primarily related to the emotional condition. A differential assessment should rule out factors, such as social maladjustment, aggression, or social immaturity, as being responsible for the impairment (CSDE, 1986). Assessment should also try to separate the distinction between "inability" and "unwilling" or "lacking the social skills". "Many learning handicapped and severely handicapped children lack the effective social skills necessary to build satisfactory interpersonal relationships (Strain, 1982). Such a lack of social skills does not make a child eligible for ED classification under this characteristic" (CSDE, 1986). Thus, assessment should evaluate the degree of social skills possessed by the child. Generally, this involves carefully documented attempts to teach specific skills in a systematic and consistent effort.

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Finally, both school staff and parents need to be interviewed to document and determine that the child has been unable to establish meaningful interpersonal relationships with peers and adults.

Characteristic 3: Inappropriate types of behavior or feelings under normal circumstances.

Discussion: This provision requires the identification of inappropriate types of behavior or feelings under normal circumstances. Inappropriate types of behavior under normal circumstances appears to mean psychotic or bizarre behavior, not merely neurotic, hyperactive, compulsive, or immoral behavior, or insecure or uncertain feelings. Inappropriate behavior can be giggling at a funeral or running down the street pouring out gibberish. It cannot be shyness, poor self-image, anxiousness, nervousness, anger, overactive behavior, or violation of social norms.

CASP lists the following descriptors of this characteristic:

1. Catastrophic reactions to everyday occurrences
2. Lack of appropriate fear reactions
3. Flat, blunt, distorted, or excessive affect
4. Bizarre behaviors
5. Self-mutilation
6. Manic behavior
7. Delusions
8. The student believes that his/her feelings, behavior, or ideas are under someone else's control
9. Unfounded beliefs of persecution
10. Delusions of grandeur, i.e., over-exaggeration or belief in one's ability, importance, etc.
11. Ideas of reference: believes that situations or discussions by staff members and other students refer to him/her even though there is obvious evidence to the contrary. A less extreme example would be where a staff member is talking to an adjacent student about a problem, and the student of concern responds as though everything said refers to him/her. A more extreme example would be where a student sees a staff member with the same kind of book that his/her parents own and believes that this indicates there is a plot to separate the student from his/her parents.
12. Hallucinations: student describes hearing things (i.e., voices, sounds) or seeing things (i.e., people, things) that are not there.
13. Thought disorder: the student's speech pattern rambles from idea to idea so that responses are not logically related to the context of the discussion; disassociation of words occurs.
14. Peculiar posturing
15. Extreme lability
16. Unexplained rage reactions
17. The child laughs or cries inappropriately in common social or academic situations in a non-manipulative fashion.
18. The child dwells in fantasy life significantly more than his peers, and talks about seeing or hearing things.
19. The child's emotions vacillate unpredictably from one extreme to another, and he shows no ability to control himself.

Assessment Considerations: Assessments should carefully consider cultural influences in determining inappropriate types of behavior. Symptoms must be related to an emotional condition and be overtly bizarre or psychotic.

Characteristic 4: General pervasive mood of unhappiness or depression.

Discussion: CASP lists the following descriptors of this characteristic:

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1. Loss of interest or pleasure in all or almost all usual activities and pastimes.
2. Depressed, sad, blue, hopeless, low, down in the dumps, irritable – must be prominent.
3. Poor appetite or significant weight loss (when not dieting) or increased appetite or significant weight gain.
4. Insomnia or hypersomnia.
5. Psychomotor agitation or retardation, but not merely subjective feelings of restlessness or being slowed down.
6. Loss of interest or pleasure in usual activities, or decrease in sexual drive not limited to a period when delusional or hallucinating.
7. Loss of energy; fatigue.
8. Feelings of worthlessness, self-reproach, or excessive or inappropriate guilt.
9. Complaints or evidence of diminished ability to think or concentrate, such as slowed thinking or indecisiveness not associated with marked loosening of associations or incoherence.
10. Recurrent thoughts of death, suicidal ideation, wishes to be dead, suicide attempt.
11. Prolonged periods of crying and confusion about reason for crying.
12. No emotion or responsiveness in most situations.
13. Extreme anger or frustration to the point of defiance persistently in spite of attempts to control anger.
14. Fear and apprehension without really knowing why.

Characteristic 5: Tendency to develop physical symptoms or fears associated with personal or school problems.

Discussion: A first point to consider is that this characteristic, as well as the other Education Code characteristics, must be the outgrowth of an established emotional disturbance, an emotional condition. Therefore, merely demonstrating that the student exhibits fears or physical symptoms will not make him/her eligible as emotionally disturbed under the Education Code. A second point is that because this characteristic is relatively less serious than the other characteristics, it appears that the student with this characteristic must have exhibited it over a longer period of time and to a more marked degree than is necessary for any of the other characteristics.

CASP lists the following descriptors of this characteristic:

1. Physical symptoms suggesting physical disorders with no demonstrable organic finding.
2. Positive evidence or strong presumption that symptoms are linked to psychological factors or conflict.
3. Symptoms which are not under voluntary control.
4. Persistent and irrational fear of a specific object, activity, or situation that results in compulsive and avoidance behavior.
5. Intense, disabling anxiety often reaching panic proportions when the object, situation, or activity is approached.
6. Recognition by the individual that his/her fear is excessive or unreasonable in proportion to the actual dangerousness of the object, activity, or situation.

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3. Emotional Disturbance as a Set of Three Limiting Criteria, All of Which Must be Satisfied

Once it has been determined that the student does indeed have an ED condition and exhibits one or more of the IDEA characteristics, the next inquiry must focus on satisfying the three limiting criteria noted above. Note that the law does not provide that the condition must meet these criteria, it requires that the specific characteristic must exist "... over a long period of time and to a marked degree, which adversely affects educational performance." The three criteria are discussed below:

1. *A long period of time*

A long duration of demonstrated ED characteristics is necessary in order to rule out a number of temporary adjustment reactions, such as reactions to developmental changes (e.g., puberty) or temporary reactions to marked increases in psychosocial stressors (e.g., divorce, death of a parent/sibling/close friend, etc.). A good test of this limiting condition is to ask, "Is the emotional disturbance so established that the educator can say, 'this is a seriously disturbed child' in the same way he would say, 'this is a deaf child' or 'this is an orthopedically handicapped child'?" Most information suggests that the minimum duration of demonstrated characteristics should be six months. A shorter or longer period of time may be appropriate for some characteristics stemming from conditions such as Major Depressive Episode (DSM-V).

2. *To a marked degree*

The California Department of Education document (1986) proposes two separate components to consider when looking at "to a marked degree". These components are pervasiveness and intensity. Pervasiveness is presented as a primary characteristic that distinguishes ED children from others with behavior disorders. The belief is that behavior disordered children are much more situation specific in the display of their behavioral symptoms, whereas ED children tend to demonstrate the characteristics of their disturbance across almost all domains (home, school, community) and with almost all individuals. Intensity is defined by negative behaviors that must be demonstrated in an overt, acute, and observable manner. They must also be related to the emotional condition and produce significant distress to the individual or to others.

3. *Adversely affects educational performance*

Educators can determine whether or not the student's emotional disturbance adversely affects his performance to the extent required by Education Code in any one, or a combination, of the following ways:

1. As a first test, determine whether the student is performing at or about the level he would have performed without the emotional disturbance. That is, is he performing within the range expected of a child of his age and ability? If he is, his emotional condition does not meet the Education Code standard of adversely affecting his educational performance.
2. Second, determine whether the student's emotional disturbance is adversely affecting his educational performance to a greater degree than the "normal" student's unhappy emotions affect their educational performance.
3. Third, determine whether or not, if the student's impairment were an orthopedic impairment rather than an emotional impairment, he would be taken out of general education and placed in special education. That is, determine whether the lower-than-expected performance would constitute a reason to place the student in special education if he were orthopedically handicapped instead of emotionally disabled.
4. Fourth, if the student is performing observably below his expected level, determine, if possible, what the cause of the lowered performance is. If the cause is not the emotional disturbance, it does not matter how low the student is performing; he does not qualify as Emotionally Disturbed by the Education Code definition.

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5. Last, determine whether the student is benefiting from academics in general education. What does his report card reflect? Is he passing from grade to grade? Will he be able to graduate? If he is benefiting from academics in general education, he has passed the Supreme Court's test for access to public education.

The California Department of Education document suggests a number of ways to assess adverse effect:

1. Academic achievement that is significantly lower than one would reasonably expect from that child's level of cognitive functioning.
2. Quality and degree of task completion, on task behavior, group participation, and peer/teacher interaction.
3. Documented teacher observations, work samples.
4. Criterion-referenced assessment.
5. Grade reports.

A key point to remember is that "... the ED condition must be the primary disabling factor in the student's inability to benefit from the educational environment."

4. Emotional Disturbance as Inclusive of Schizophrenia, But Exclusive of Social Maladjustment. Schizophrenia is the one condition expressly named in 5 CCR 3030 (b)(4)(f). While schizophrenia is expressly named in the law, it still must meet the requirements that:

1. The characteristics have existed over a long period of time.
2. The characteristics exist to a marked degree.
3. The emotional condition adversely affects educational performance.

The Education Code expressly exempts the socially maladjusted child from the category Emotional Disturbance unless he has some other coexisting serious emotional disturbance as defined in Education Code. If a child is socially maladjusted, he cannot be placed in special education unless he qualifies in some other way.

Interpretation of this section stipulates that students may not be placed in special education by virtue of also being socially maladjusted. This means they may not be found to be emotionally disturbed solely because they are behavior disordered, or are antisocial, or have a conduct disorder. The law does not allow it.

Therefore, when considering the initial eligibility of a student as emotionally disturbed, it is wise to keep in mind that the purpose behind the legal definition of Emotional Disturbance is to admit to special education those students who otherwise would be virtually deprived of an appropriate education. As Slenkovich puts it, "... these are the students who are the rightful beneficiaries of the Individuals with Disabilities Education Act."

Section D – Dismissal from Special Education

20 U.S.C. Section 1414(c)(5)

(A) In general

Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

(B) Exception

(i) In general

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this subchapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under State law.

(ii) Summary of performance

For a child whose eligibility under this subchapter terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

A student may be dismissed from special education when, based on an evaluation of the student, the IEP team determines the needs which were originally identified when the student was initially found eligible for special education have been addressed to the extent that the student can access and progress in the general education curriculum without special education services. When a student is transitioning from special education to general education classes the IEP team must provide a description of the process that includes activities/supports necessary to support the transition of the student.

A student's eligibility for special education also terminates when a student graduates from high school with a regular diploma, or reaches the maximum age for services. The LEA is not required to conduct an evaluation in these cases, but must provide prior written notice of the change in placement and must provide the student with a summary of their academic and functional performance. Sample letters to use when a student is graduating or has reached the maximum age for service, and the Summary of Performance are included in Appendix A.

References: 34CFR 300.8; CCR 3030; EC 56026, 56031, 56337, 56345, 56381; West End SELPA Workgroup Document; and 20 U.S.C. §1414 (c)(5).

APPENDIX A

FORM LETTERS FOR USE WHEN STUDENTS EXIT SPECIAL EDUCATION

SCHOOL DISTRICT LETTERHEAD

(Date)

Dear Parent,

This letter serves as written notice that your child is currently meeting the requirements for graduation with a regular education diploma. It is anticipated that _____ (name of student) _____ will graduate _____ (date) _____.

Pursuant to federal law the district wishes to notify you of this proposed change in placement. Your child's graduation with a regular education diploma is based on the student meeting both the California and the (district name) _____ School District's requirements for graduation with a regular high school diploma. As your child is currently on track to satisfy those requirements, graduation with a regular education diploma is the only appropriate option. Upon graduation (name of student) _____ will no longer be eligible for special education services. It is the District's determination that other options, such as retention, or a non-regular education diploma, are not appropriate for _____ (name of student) _____ at this time. This determination will be reviewed at the next IEP team meeting, which is scheduled for _____ (month, year) _____.

The following evaluation procedures, tests, records and/or reports were used to determine your student's status:

Please be advised that you are entitled to procedural safeguards that are provided to parents and students who are eligible for and receiving special education services. If you have questions or disagree with the information presented in this notification, please contact _____ (insert name and contact information) _____. Also, if you need assistance to understand any portion of this notice, we are able to provide further resources.

Yours truly,

FORM LETTERS FOR USE WHEN STUDENTS EXIT SPECIAL EDUCATION

SCHOOL DISTRICT LETTERHEAD

(Date)

Dear Parent,

Congratulations! This letter serves as written notice that your child has met the requirements for graduation and has received a regular education diploma.

Pursuant to federal law the district wishes to notify you of this change in placement. Your child's graduation with a regular education diploma was based on meeting both the California and the _____ (district name) _____ School district's requirements for graduation with a regular high school diploma. Graduation occurred on _____ (date) _____ at _____ (name of high school) _____.

The following evaluation procedures, tests, records and/or reports were used to determine the student's status:

- _____ Completion of the required course of study for High School Graduation
- _____ Passing the High School Exit Exam
- _____ Other Comments:

Please be notified that some student records, such as: student name, address, phone number, grades, attendance records, classes attended, grade level completed and year of graduation will be maintained by the district with no time limitation. All other information will be kept until the third year following graduation after which time it will be removed and destroyed.

If you have questions or disagree with the information presented in this notification, please contact _____ (insert name and contact information) _____. Also, if you need assistance to understand any portion of this notice, we are able to provide further resources.

Yours truly,

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

STATE SELPA IEP TEMPLATE
SUMMARY OF THE STUDENT'S ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

Student Name _____ Date of Birth ___/___/____ Summary Date ___/___/____
Date of Initial IEP ___/___/____ Date of Most Recent IEP ___/___/____
Primary Disability _____ Secondary Disability _____ Native Language _____
EL Yes NO
If the student is an English Learner, list services provided to assist the student _____

Summary Completed by: _____

Please Note: Your District/LEA is mandated to contact you one year after you finish your school program to determine your schooling/job status. Please indicate the ways in which you can be contacted:

- Social Media Accounts (Facebook, Twitter): _____
- Cell Phone #: _____
- Email Address: _____

Reason for Exit (check the one that applies):

- Graduated per District's requirements/policy earning a regular high school diploma
- Reached age 22 and earned a Certificate of Completion and is no longer eligible for special education
- Received a Certificate of Completion

SUMMARY OF STUDENT'S ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

Strengths/Interests/Learning Preferences: _____

Pre-Academic/Academic/Functional Skills (Note results of any general state or district-wide assessments):

Cognitive Abilities:

Communication Skills:

Motor Skills (Fine/Gross):

Health:

Social/Emotional/Behavioral:

Self-Help/Adaptive:

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

STATE SELPA IEP TEMPLATE
SUMMARY OF THE STUDENT'S ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

STUDENT'S POST-SECONDARY GOAL(S):

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

If employment is the primary goal, student's top three job interests:

- 1. _____
- 2. _____
- 3. _____

Recommendations to assist the student in meeting post-secondary goals:

- 1. Higher Education or Career-Technical Education:

- 2. Employment:

- 3. Independent Living:

- 4. Community Participation:

AGENCY LINKAGES (check agencies known to be working with the individual or could be a resource to the individual)

Agency Contact Person and Phone Number, If known

- Regional Center _____
- California Children's Services (CCS) _____
- Department of Health and Human Services _____
- Mental Health Services _____
- Employment Development Department _____
- California Department of Rehabilitation _____
- Community College/University Disabled Student Services _____
- Other _____

For Additional Information such as however not limited to; last cognitive assessment results (psycho-educational report), academic/functional assessment results, Individual Educational Program Packet, or other k-12 schooling documentation contact

Name of School District _____
School District's Phone number _____
Title of Contact Person _____
Best if contact is made no later than __/__/____

CHAPTER 2 ELIGIBILITY CRITERIA – INDIVIDUALS WITH EXCEPTIONAL NEEDS

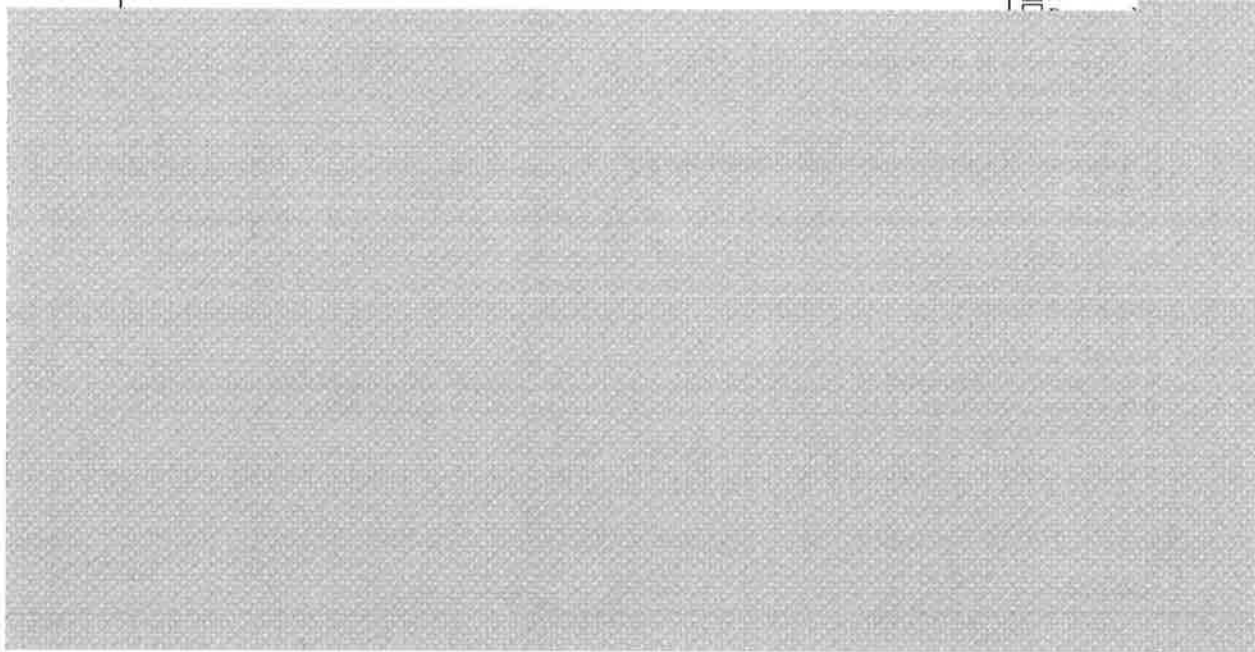
STATE SELPA IEP TEMPLATE SUMMARY OF THE STUDENT'S ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE

Student Name _____ Date of Birth __/__/____ Summary Date __/__/____

Note: These accommodations have been documented on the IEP dated __/__/____

SUPPLEMENTARY AIDS, SERVICES & OTHER SUPPORTS FOR SCHOOL PERSONNEL, OR FOR STUDENT, OR ON BEHALF OF THE STUDENT

Aids, Services, Program Accommodations/Modifications, and/or Supports	
	<input type="checkbox"/> Student
	<input type="checkbox"/> Personnel
	<input type="checkbox"/> Student
	<input type="checkbox"/> Personnel
	<input type="checkbox"/> Student
	<input type="checkbox"/> Personnel
	<input type="checkbox"/> Student
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	<input type="checkbox"/> Personnel



APPENDIX B

**NOTE: THE FOLLOW FORMS ARE LOCATED IN THE
SEIS LIBRARY**

- Specific Learning Disability Team Determination - Discrepancy
- Specific Learning Disability Documentation Report -IEP
- Specific Learning Disability Team Determination – Patterns of Strengths & Weaknesses
- Specific Learning Disability Team Determination of Eligibility

APPENDIX C

Prior Written Notice Due to Parent Revocation of Consent for Special Education

Prior Written Notice
Due to Parent Revocation of Consent for Special Education

Revised 9/30/09

(Date)

(Address)

Dear

This letter is in response to your written request revoking consent for special education placement and related services provided to the (Name) District on (Date). The District agrees to your revocation and will cease providing the following special education services on (Date):

6. List IEP services, including special transportation, ESY

Upon this date your child will be considered a general education student and will be assigned to (School/Grade/Teacher or schedule of classes). By revoking your consent for special education and related services, your child will no longer be eligible under the Individuals with Disabilities Act (IDEA) for a free and appropriate public education, triennial evaluations, or an annual IEP. Your child's general education teacher is not required to provide the accommodations and modifications previously identified in the IEP, this includes state and district testing. The school district will not be deemed to have knowledge that your child is a child with a disability; your child may be disciplined as a general education student and is not entitled to IDEA's discipline protections. You do retain the right to subsequently request an evaluation for special education, your request will be treated as a request for an initial evaluation and subject to the provisions and timelines in state and federal law.

The District is directed by the IDEA and its regulations to agree to your written revocation in a timely manner. The District is taking this action after review of your written request to revoke consent for special education and related services. The District is not provided with other options to consider.

Parents of a child with a disability have protections under the procedural safeguards of IDEA. A copy of these procedural safeguards is enclosed with this notice. If you need assistance in understanding the provisions of your rights and safeguards you may contact, Royal Lord, Program Manager, West End SELPA at 909 476-6135

Sincerely,

(Name)

Enclosure: Procedural Safeguards Notice (Procedural Safeguards can be located in the SEIS Library)

Chapter 3

EVALUATION AND ASSESSMENT

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	ENTITLED: PROPRIETY OF ADMINISTERING I.Q. TESTS TO AFRICAN-AMERICAN STUDENTS	

Introduction

This section contains the requirements for evaluation and assessment of students who are not progressing in the general education program, even though modifications and accommodations have been provided. Parents receive information about the assessment process and instruments. Following a signed parent consent, the evaluation and assessment process begins. The initial evaluation and reevaluation are broad terms that apply to all individual testing, which includes observation and all other data-gathering activities that result in decisions about a student's educational needs. Generally, evaluation may be defined as the process to make an informed choice about a child's eligibility for special education. Assessment is a process through which the child's abilities, present levels of performance and need for service are established. It provides information that can be used by teachers and other specialists to determine how to teach a student with a disability in a way that he/she is most capable of learning.

Each local education agency shall conduct, on at least an annual basis, reviews of all IEPs. Procedures shall provide for the review of the child's progress and the appropriateness of placement and services, and the making of any necessary revisions. Assessments may be conducted annually, as necessary, to provide the IEP team sufficient information to review the child's progress and the appropriateness of placement and services. Formal assessments require written parent consent.

Evaluation for Determination of Eligibility for Special Education Services

EC 56320 Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all of the requirements summarized in EC 56320).

The requirements in state and federal statutes and regulations that are related to special education programs include: Part 30 of the Education Code, Chapter 3 of the California Code of Regulations, and Title 5 Education Code. These document sections serve as a guide to the entire process of individualized evaluation and assessment and the individualized education program (IEP) team's determination of eligibility.

The tests and materials used are validated for the specific purpose of evaluation and assessment and are free from racial, cultural, or sexual bias. They are administered in the child's primary mode of communication unless otherwise specified. Tests are administered by trained personnel. The tests selected ensure that results for students with impaired sensory, manual, or speaking skills reflect the pupil's aptitude, achievement level, or other factors that the test purports to measure.

Section A – Areas of Suspected Disability

EC 56320 (f) *The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social emotional status. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with Sections 300.304 and 300.305 of Title 34 of the Code of Federal Regulations.*

EC 56322. *The assessment shall be conducted by persons competent to perform the assessment, as determined by the local educational agency.*

EC 56327 *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 of the following:*

- (a) Whether the pupil may need special education and related services.*
- (b) The basis for making the determination.*
- (c) The relevant behavior noted during the observation of the pupil in an appropriate setting.*
- (d) The relationship of that behavior to the pupil's academic and social functioning.*
- (e) The educationally relevant health and development, and medical findings, if any.*
- (f) For pupils with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.*
- (g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.*
- (h) The need for specialized services, materials, and equipment for pupils with low incidence disabilities, consistent with guidelines established pursuant to Section 56136.*

No single procedure for evaluation will be used as the sole criterion for determining an educational program for a student with exceptional needs. The assessment of the individual, including individuals with suspected low incidence disabilities, is conducted by appropriate personnel who are knowledgeable of that disability. Consideration is given to the need for specialized services, materials, and equipment consistent with students who experience a low incidence disability.

The statement of present levels is a summary that describes the student's current academic achievement and functional performance across a variety of educationally related domains. The statement of present levels creates a baseline for designing educational programming and measuring future progress. Based on this information, areas of need are determined. In addition, with regard to the student's involvement in the general education curriculum, the statement of present levels of academic achievement and functional performance is important because it provides the basis for determining what the individual student needs in order to meaningfully participate in the least restrictive environment (LRE).

Current, specific, measurable, objective, baseline information links evaluation results to expectations of the core curriculum or alternative curriculum. This information forms the basis for the development of goals for the student. If the student will be age 16 or older prior to their next Annual Review, the statement of present levels also addresses the student's transition needs in the areas of instruction, employment and post-school adult living, community, and related services.

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If the purpose of the present level of educational performance is to identify a student's needs and establish a baseline from which to develop meaningful and measurable goals, then, the statement of present levels should:

- Be stated in terms that are specific, measurable, and objective;
- Describe current performance, but not past performance;
- Describe current performance in narrative terms versus relying on standardized scores and/or classification labels;
- Prioritize and identify needs that will be written as goals; and
- Provide baseline information for each identified goal to be developed.

Section B – Types of Assessment

Once a student has been identified for special education services, it is mandated that ongoing assessments provide direction for individualized planning. An annual review is conducted to review goals and benchmark objectives through the IEP process. The student's present level of performance may be identified from classroom observation, checklists, student work, and/or valid, norm referenced assessment tools. Additionally, benchmark objectives are reviewed continually during the year for completion, modification, or redevelopment. A variety of ecological and empirical data is reviewed to establish an appropriate learning environment for each student who receives special services. The development of goals and benchmark objectives for the IEP depends upon assessment data. Following the IEP the instructional plan for IEP implementation is partly based upon information gleaned from this testing process.

Norm-Referenced Tests

Assessments that are produced by publishers include inventories and assessment tools that have been normed for a specific population, developmental age group, and/or grade level expectancies. Norm-referenced assessments are useful when developing and evaluating the student's instructional program. Initially, the assessment results are analyzed to determine eligibility to access supports and services.

Curriculum-Based Assessment

In addition to norm referenced tests, educators use curriculum-based assessment to conduct on-going assessment of student progress toward educational goals and benchmark objectives. Examples of curriculum-based assessment include: unit tests, portfolios, oral interviews, presentations, rubric scoring, informal inventories, written tests, checklists, or student produced products. These measurements are useful to educators for preparing future lessons that shape classroom-based instruction. Understanding of individual students and whole classrooms is provided through curriculum-based assessment for both checking and reporting learning progress.

Alternative Assessment

Alternative testing is the utilization of specialized techniques for students with particular needs or disabilities that cannot be accommodated through standardized assessments. Students tested by alternative assessment often do not participate in learning through the core curriculum. Their learning and IEP is structured around a functional life skills' curriculum. Examples of alternative assessments include portfolios, community-based observation, accommodations and modifications to assessments that are used with non-disabled peers, problem-based measurement, and charting. As of July 1, 2000, federal regulations require that students with a curriculum that is an alternative to the core curriculum must have a specified plan for alternative assessment.

Multi-Tiered Systems of Support (MTSS)/Response to Intervention & Instruction (RtI²) MTSS is an integrated, comprehensive framework that focuses on CCSS, core instruction, differentiated learning,

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student-centered learning, individualized student needs, and the alignment of systems necessary for all students' academic, behavioral, and social success. MTSS offers the potential to create needed systematic change through intentional design and redesign of services and supports that quickly identify and match the needs of all students.

Comparing MTSS to RtI²

CDE's RtI² processes focus on students who are struggling and provide a vehicle for teamwork and databased decision making to strengthen their performances before and after educational and behavioral problems increase in intensity.

MTSS Differences with RtI² - MTSS has a broader scope than does RtI². MTSS also includes:

- Focusing on aligning the entire system of initiatives, supports, and resources.
- Promoting district participation in identifying and supporting systems for alignment of resources, as well as site and grade level.
- Systematically addressing support for all students, including gifted and high achievers.
- Enabling a paradigm shift for providing support and setting higher expectations for all students through intentional design and redesign of integrated services and supports, rather than selection of a few components of RtI and intensive interventions.
- Endorsing Universal Design for Learning instructional strategies so all students have opportunities for learning through differentiated content, processes, and product.
- Integrating instructional and intervention supports so that systemic changes are sustainable and based on CCSS-aligned classroom instruction.
- Challenging all school staff to change the way in which they have traditionally worked across all school settings.

MTSS is not designed for consideration in special education placement decision, such as specific learning disabilities. MTSS focuses on all students in education contexts.

MTSS Similarities to RtI² -MTSS incorporates many of the same components of RtI², such as:

- Supporting high-quality standards and research-based, culturally and linguistically relevant instruction with the belief that every student can learn including students of poverty, students with disabilities, English learners, and students from all ethnicities evident in the school and district cultures.
- Integrating a data collection and assessment system, including universal screening, diagnostics and progress monitoring, to inform decisions appropriate for each tier of service delivery.
- Relying on a problem-solving systems process and method to identify problems, develop interventions and, evaluate the effectiveness of the intervention in a multi-tiered system of service delivery.
- Seeking and implementing appropriate research-based interventions for improving student learning.
- Using school-wide and classroom research-based positive behavioral supports for achieving important social and learning outcomes.
- Implementing a collaborative approach to analyze student data and working together in the intervention process.

Section C – English Learner

EC 56320 (b) Tests and other assessment materials 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

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and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer as required by Section 1414(b)(3)(a)(ii) of Title 20 of the United States Code.

CCR 3022 *In addition to the assessment plan requirements of Education Code Section 56321, the proposed written assessment plan shall include a description of any recent assessments conducted, including any available independent assessments and any assessment information the parent requests to be considered, and information indicating the pupil's primary language and the pupil's language proficiency in the primary language as determined by Education Code Section 52164.1.*

CCR 3023 Assessment and Reassessment.

(a) *In addition to provisions of Education Code Sections 56320 and 56381, assessments and reassessments 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 of the assessment may have been affected.*

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

CCR 3001 (q) *"Primary language" means the language other than English, or other mode of communication, the person first learned, or the language which is used in the person's home.*

(m) *"Linguistically appropriate goals, objectives, and programs" means:*

(1)(A) *Those activities which lead to the development of English language proficiency; and*

(B) *Those instructional systems either at the elementary or secondary level which meet the language development needs of the limited English language learner.*

(2) *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, nothing in this section shall preclude the IEP team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311 provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.*

Section D – Evaluation of African-American Students

At the time of publication, no new definitive information is available regarding the evaluation and assessment of intelligence of African-American students referred for special education. Under the Larry P. v. Riles decision of 1979 there are no approved instruments. The decision identified only those tests that are prohibited. Additionally, there is no criterion or a process for selecting acceptable instruments. Consequently, according to the California Department of Education, Special Education Division, African-American students cannot be assured that decisions about their eligibility for special education will be based on technically or educationally adequate instruments. To provide equal treatment and effective educational decisions for African-American students in special education, according to a presentation to the Advisory Commission on Special Education, November 20, 1998:

The California Association of School Psychologists (CASP) in cooperation with the Special Education Division of the California Department of Education asks the Advisory Commission on Special Education to

participate in establishing criteria and a committee to select acceptable tests or procedures.

Intelligence is assessed in education for identification and documentation of an educational disability as required for special education services. However, identification of all educational disabilities does not require the assessment of intelligence, and several of the educational disabilities include the term intellectual ability or a synonym of the concept. Terms of general or specific intellectual abilities are found as special education service requirements for specific learning disability, intellectual disability, emotional disturbance, and traumatic brain injury.

Implications for California Speech Language Pathologists – Toya Wyatt Article

Although the original ruling applies to the use of standardized IQ tests with African American children, many standardized speech and language tests also fall under the Larry P. mandate. This is because they directly or indirectly purport to measure IQ and their construct validity is partially or fully determined through correlations with other IQ tests.

See Appendix A for an opinion letter regarding the propriety of administering I.Q. tests to African-American students.

Section E– Manifestation Determination

The IDEIA uses the term “manifestation determination” to mean the evaluation of the relationship between a student’s disability and act of misconduct that must be undertaken when a district proposes to take specified serious disciplinary actions.

The 2006 regulations in 34 CFR 300.530(e) require that the manifestation determination be made 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 individuals involved in making the manifestation determination are charged with reviewing all relevant information in the student’s file, including the IEP, any teacher observations and any relevant information provided by the parent. 34 CFR 300.530(e)(1)

Under the 2006 regulations at 34 CFR 300.530(e)(1), the behavior is a manifestation of the child’s disability:

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 district’s failure to implement the IEP.

The parent, pursuant to Section 300.504 of Title 34 of the Code of Federal Regulations, is entitled to a written notice of the local educational agency’s intent to conduct a pre-expulsion assessment.

The assessment conducted for pre-expulsion follows the same procedures as assessments for an annual or triennial review. It includes a review of the appropriateness of the pupil’s placement at the time of the alleged misconduct, and a determination of the relationship, if any, between the pupil’s behavior and his or her disability. The exception is that the timeline for assessment requires that the assessment is complete prior to the pre-expulsion meeting.

Section F – Triennial Assessment

EC 56381(a)(2) A reassessment shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise, and shall occur at least once every three years, unless the parent

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and the local educational agency agree, in writing, that a reassessment is unnecessary. If the reassessment so indicates, a new individualized education program shall be developed.

Each local education agency shall conduct a reassessment of each child with a disability if conditions warrant a reassessment, or if the child's parent or teacher requests a reassessment, but at least once every three years.

Section G - Independent Educational Evaluation

EC 56329(b) *A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent or guardian disagrees with an assessment obtained by the public education agency, in accordance with Section 300.502 of Title 34 of the Code of Federal Regulations. A parent or guardian is entitled to only one independent educational assessment at public expense each time the public agency conducts an assessment with which the parent or guardian disagrees. If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.*

When a parent or guardian requests an independent educational evaluation, the public education agency may initiate a due process hearing to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent or guardian maintains the right for an independent educational evaluation, but not at public expense.

If the school district agrees to an independent evaluation at public expense, the district director should contact the SELPA with the names of the assessors they have agreed to. An assessment plan and release (s) of information will be developed by the district which specifies those areas to be evaluated and who will complete each assessment. The assessment(s) completed will comply with the locations of the evaluator(s), the minimum qualifications of evaluator/s, the costs of the evaluation, and use of approved assessment instruments as set out in the Criteria for Independent Educational Evaluation.

Parents will be required to sign consent to evaluate and appropriate releases to exchange information between the independent educational evaluator(s) and the SELPA/school district as a condition of the school district's agreement to provide for an independent evaluation.

As part of an independent educational evaluation, the examiner shall follow guidelines as articulated in current educational code and state law for school district evaluations, which include, but are not limited to, observing the student in an appropriate setting and interviews with parents and staff.

The independent educational evaluation must be reviewed at an individualized education program (IEP) meeting. The District is responsible for scheduling the IEP meeting. The independent examiner shall attend the IEP team meeting in person or through phone contact at which time the evaluation will be discussed. The SELPA/school district will pay the independent examiner to attend the IEP team meeting as part of the evaluation responsibilities.

See West End SELPA Policies and Procedures: Independent Educational Evaluation BP 6159.8 AR 6159.8

APPENDIX A

Lozano Smith Attorneys At Law Opinion Letter Entitled: Propriety of Administering I.Q. Tests to African-American Students

Sarah E. Tigerman
Attorney at Law

E-Mail: stigerman@lozanosmith.com

March 18, 2002

OPINION LETTER

XXXX XXXXXXXXXXXX, Director
Special Education
XXXXXX Unified School District
10615 Severan Street
XXXXXXX, CA 90000

Re: Propriety of Administering I.Q. Tests to African-American Students

Dear XXXXXX:

You have requested our opinion regarding the effect of the Crawford v. Honig¹ decision on the propriety of using I.Q. testing with African-American students, assuming that the test is not culturally biased and is not used to identify students as “educable mentally retarded” (“EMR”). The short answer is that standardized tests of intelligence should not be used to determine special education eligibility for African-American students, pursuant to the stated policy of the California Department of Education (“CDE”). While the case law establishes that I.Q. testing of African-American students is only prohibited if used to determine placement in EMR classes or their “substantial equivalent,” the CDE’s policy is to prohibit the use of intelligence tests to assess special education eligibility of African-American students in general. Significantly, the CDE will make a finding of noncompliance if a district has used a prohibited test for assessing special education eligibility of African-American students.

BACKGROUND

The Larry P. Decision

The seminal case on this matter is Larry P. v. Riles, 495 F. Supp. 926 (N.D. Cal. 1979) *aff'd* 79 F.2d 969 (9th Cir. 1986). In Larry P., a group of black students filed a lawsuit challenging the use of I.Q. tests to identify and determine placement in EMR classes. The court found that the use of standardized intelligence tests were racially and culturally biased, and issued a permanent injunction against the use of such tests “for the identification of black EMR children or their

¹ 37 F.3d 485 (9th Cir. 1944).

XX. XXX XXXXX, Director
March 18, 2002

placement into EMR classes.” The court defined an EMR designation to include any “substantially equivalent” category, and defined EMR classes to include “other special classes serving substantially the same functions.” The court noted that EMR classes were considered “dead-end classes” that students were “unlikely to escape” to return to regular education classes. Although the EMR designation and classes were abandoned long ago, no published court decision has since interpreted the meaning of a “substantially equivalent” designation or class. Thus, there is limited guidance available regarding what constitutes the types of labels or class placements that should not be determined based on standardized I.Q. tests. The decision included a list of about seventeen (17) prohibited intelligence tests.

The Larry P. Settlement

In 1986, after California had abolished the EMR category, the parties to the Larry P. case entered a settlement agreement to modify the earlier injunction. Specifically, the parties agreed to have the injunction expanded to preclude the use of I.Q. tests to assess African-American students for *any* special education identification or placement. The district court modified its 1979 injunction based upon the settlement agreement and entered a new judgment reflecting the modified injunction.

The Larry P. Task Force

In response to the 1986 modification of the Larry P. injunction, the State Director of Special Education appointed a task force to develop recommendations regarding policies and alternative assessments to comply with the injunction. In 1989, the task force issued a lengthy report that included lists of prohibited intelligence tests. The task force lists included the tests from the Larry P. decision, as well as about twelve additional tests the task force suggested were subject to the injunction.

1992 Legal Advisory from the CDE

Following the district court decision in the Crawford case, but before the appeal to the Ninth Circuit, the CDE issued an analysis of the district court order vacating the 1989 modification to the injunction. In this Advisory, the CDE noted that the original Larry P. decision concluded that I.Q. tests were racially and culturally biased and resulted in disproportionate placement of black students in “dead-end” classes. The CDE adopted criteria for complying with the original Larry P. injunction from the unpublished district court opinion. The CDE determined that all special education designations could result in the placement of African-American students in “dead-end” classes, because research showed that many black students of all designations ended up in special day classes and were seldom returned to regular education. The CDE took the position that alternative assessments should be used to assess African-American students for special education eligibility.

Website: www.lozanosmith.com

XX. XXX XXXXX, Director
March 18, 2002

CURRENT LAW AND POLICY

Federal and State Law

Both federal and state laws prohibit the use of evaluation materials that are racially or culturally biased for assessing special education eligibility. (See 20 U.S.C. § 1412(a)(6)(B); 34 C.F.R. § 300.532(a)(1)(i); Educ. Code § 56320(a).) The laws further require that any standardized tests be validated for the specific purpose used. (See 34 C.F.R § 300.532(C)(1)(i); Educ. Code § 56320(b)(2).)

Crawford v. Honig

In the Crawford case, a group of African-American students challenged the 1986 modification to the 1979 Larry P. injunction. The district court vacated the 1986 modification, leaving the original Larry P. injunction intact. The Ninth Circuit affirmed the district court's decision to vacate the 1986 modification because there were no factual findings to support the expansion of the injunction. The circuit court noted that the original Larry P. injunction was limited to a ban of I.Q. testing for placement of African-American students in EMR classes, and was not a determination of the validity of I.Q. testing for other purposes. The district court had also ordered further proceedings to determine the "substantial equivalent" to EMR classes. However, those proceedings were either not completed or did not result in a published opinion.

CDE Analysis of Crawford v. Honig

Shortly after the Crawford decision was rendered in 1994, the CDE issued a memorandum reaffirming the 1992 Advisory and the CDE's position prohibiting intelligence testing for assessing special education eligibility of African-American students. The CDE confirmed that the original Larry P. injunction remained intact and was unchanged by the Crawford case. The memorandum emphasized that American versions of standard I.Q. tests had been found racially and culturally biased by the Larry P. court and that parental consent could not overcome the inherent bias in the tests. The CDE further asserted that, under state and federal law, it has the authority to prohibit the use of tests not validated for the purpose used, and made clear that no standardized intelligence test has been validated for determining special education eligibility for placement. The CDE views the statutory ban on use of discriminatory testing materials very broadly and not limited by the terms of the Larry P. injunction. Thus, the CDE's position is that I.Q. tests may not be used to identify African-American students as either mentally retarded or learning disabled.

The CDE Clarification

In 1997, the CDE issued its latest memorandum on this topic – Clarification of the Use of Intelligence Tests with African-American Students for Special Education Assessment. In the Clarification, the CDE appears to have entirely ignored the Crawford decision and expressly

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states that districts will be found out of compliance for using any of the tests listed in the Task Force report to assess black students for special education eligibility. The CDE Clarification further states that no standardized intelligence tests, even if not on the task force lists, should be used to assess African-American students' eligibility for special education. The CDE's reasoning remains based on the original Larry P. decision, in which the court found that all the I.Q. tests reviewed were culturally biased, and the statutory prohibition against using discriminatory evaluation materials for special education eligibility.

The 1977 Clarification represents the CDE's current policy regarding intelligence testing of African-American students, and remains the basis for non-compliance findings. Thus, while the case law creates a narrower prohibition regarding I.Q. testing of black students, school districts are cautioned to avoid standardized intelligence tests and use alternative assessments to evaluate special education eligibility and placement of African-American students.

Should you have any questions, or wish to discuss this matter further, please feel free to call.

Sincerely

LOZANO SMITH

Sarah E. Tigerman

Chapter 4

INSTRUCTIONAL PLANNING AND THE INDIVIDUALIZED EDUCATION PROGRAM

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Introduction

The Individualized Education Program (IEP) document is the foundation that directs instructional planning for the student with exceptional needs. Therefore, the process of preparing for, conducting, and following-up any IEP meeting is crucial to the development and implementation of the IEP. This chapter will give an overview of the IEP meeting process, including the IEP document, which describes the student's program.

The West End SELPA web-based Individualized Education Program (IEP) is used by all local education agencies within the West End SELPA and includes all required components.

All special education and related services determined by the Individualized Education Program (IEP) team to be necessary for a student to benefit from special education shall be listed on the IEP. The IEP shall include date of initiation, frequency, duration and location of service. A Local Education Agency (LEA) shall assure that each student with a disability is provided services in accordance with his/her IEP, regardless of which agency or contractor provides the service.

Section A – The IEP Meeting: Preparation, Process, and Follow-up

EC -56340 Each district, special education local plan area, or county office shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs.

EC 56341 (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs, shall be conducted by an individualized education program team.

EC 56343 An individualized education program team shall meet whenever any of the following occurs:

- a) A pupil has received an initial formal assessment. The team may meet when a pupil receives any subsequent formal assessment.*
- b) The pupil 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 pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, and the appropriateness of placement, and to make any necessary revisions.*

Activities Prior to the Meeting

Preparation is required for an effective and collaborative IEP meeting. It is best practice to have the chairperson of the IEP team contact the parent prior to the IEP meeting to obtain input on his/her priorities for goals and objectives, any concerns they may have, and to determine the parent's expectations for the meeting. The chairperson should also ask the parent if s/he has any reports or evaluations that the parent would like the IEP team to consider.

The special education service providers have responsibility for reviewing the criteria for achievement in the goals from the previous IEP, and determining if they have been met or not met. Draft goals and objectives based on student progress and parent input should be written and submitted to the case manager. The case

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manager should send a copy of the draft goals and objectives proposed for the new IEP to the parent(s) for their review in advance of the IEP meeting when feasible to do so. If assessments have been completed in preparation for the IEP meeting, these reports should also be shared with the parent prior to the IEP meeting. This may be through an informal meeting, email, U.S. mail, or phone contact.

In cases where the student has many different service providers, the service providers and IEP chairperson may elect to meet prior to the IEP meeting to clarify their roles and the scope of the IEP meeting.

Meeting Notification

Each local education agency shall make every reasonable effort to ensure that one or both parents of the child with a disability are present at the IEP meeting and are afforded the opportunity to participate. Parents should be notified of the meeting early enough to ensure that they will have an opportunity to attend. The meeting should be scheduled at a mutually agreed on time and place. When a student reaches the age of majority, the district shall provide notice of the IEP to the student.

If neither parent can attend, the local education agency shall use other methods to ensure meaningful parent participation, including individual or conference telephone calls and other reasonable accommodations. If the parent cannot be convinced to attend the IEP meeting, the LEA must document attempts to arrange the meeting at a mutually agreeable time and place. Documentation may include record of phone call(s) made or attempted and the results, copies of correspondence sent to the parent(s) and any responses received, copies of meeting notices, and records of visits to the parent's home or place of employment and the results of those visits. Local policy has suggested a minimum of ten calendar days' notice to the parents and other parties who have assessed or who serve the student. The notice must contain the following elements:

- Purpose, time, and location of the meeting
- The positions of the people invited to the meeting
- Identification of any other local agency invited to send a representative
- The right to bring other people to the meeting who has knowledge or special expertise regarding the student with disabilities
- Student's age 16 or younger, if appropriate, a statement indicating that the purpose is to consider needed transition services and the student is invited to the meeting

IEP Team Members

The IDEA requires a district to ensure that an IEP team for a child with a disability includes:

1. The parent(s) of the child.
2. No less than one general education teacher of the child (if the child is or may be participating in the general education environment).
3. No less than one special education teacher of the child or, where appropriate, no less than one special education provider of the child.
4. A district representative who: i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; ii) is knowledgeable about the general education curriculum; and iii) is knowledgeable about the availability of district resources.
5. An individual who can interpret the instructional implications of evaluation results.

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6. At the discretion of the parent(s) or the district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.
7. Whenever appropriate, the child.

(34 CFR 300.321 (a))

A district should document IEP meeting attendees to be able to later prove that the meeting was properly constituted according to 34 CFR 300.321.

When a purpose of the meeting is to consider postsecondary goals and transition services needed to reach these goals, the student shall be invited to attend the IEP. The student's input regarding preferences and interests will be solicited if he/she is unable or unwilling to attend. The LEA, with the consent of the parent or a child who has reached the age of majority, must also invite any other agency that is likely to be responsible for providing or paying for transition services.

Education Code § 56341.2 requires an invitation be sent to a representative of the group home in those cases in which a pupil with exceptional needs has been placed in a group home by a juvenile court.

- (a) In the case of a pupil with exceptional needs who has been placed in a group home, as defined in subdivision (g) of Section 80001 of Title 22 of the California Code of Regulations, by the juvenile court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code, the district, special education local plan area, or county office shall invite to the individualized education program team meetings a representative of the group home.

When an infant or toddler who had previously received IDEA Part C services becomes eligible for Part B FAPE-based coverage, an invitation to the initial IEP meeting for a child previously served under Part C must, at the request of the parents, be sent to the Part C services coordinator or other representatives of the Part C system to assist with the smooth transition of services. 34 CFR 300.321 (f).

Excusal of an IEP team member

IDEA 2004 has provisions for a required IEP team member to be excused from the IEP meeting. The purpose of this provision is to provide additional flexibility in scheduling IEP meetings and to avoid delays in holding IEP meetings.

A member of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. When an IEP meeting involves a modification to or a discussion of the member's area of the curriculum or related services, a member of the IEP Team may be excused from attending an IEP Team meeting, in whole or in part, if:

- The parent, in writing, and the public agency consent to the excusal; and
- The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

[34 CFR 300.321(e)] [20 U.S.C. 1414(d)(1)(C)]

The consent for excusal of an IEP team member must be in writing on the IEP Team Member Excusal Form found in SEIS. Each Local Educational Agency (LEA) will designate the individual in the LEA that has the authority to provide consent on behalf of the LEA. The excusal applies to attending the meeting in whole or

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in part. The LEA may not routinely excuse IEP team members from meetings, in whole or in part; it is expected that this provision will only be used when necessary. This provision only applies to the required members of the IEP team meeting, members who are not required may be absent without any formal excusal.

The IEP Meeting

An IEP must be developed annually for every student placed in a special education program. The IEP is developed by an IEP team after the assessment process is completed, or when the student transfers into the LEA. An IEP meeting is held and shall be reviewed at least once each year. An IEP shall be in effect for each student at the beginning of each school year. A single IEP shall be developed for each student that includes all special education services.

The IEP team meeting is conducted by a chairperson (i.e., the member of the IEP team leading the IEP meeting). The chairperson is responsible for facilitating the meeting. The chairperson's responsibilities include:

- Soliciting input from the parent(s), and other team members
- Ensuring that a discussion of pertinent data, reports, and educational alternatives takes place in a positive, productive, and non-adversarial manner
- Prioritizing needs and facilitating determination of goals and objectives,
- Facilitating a discussion of recommended services and placement in the least restrictive environment
- Ensuring the IEP contains a clear written offer of FAPE
- Obtaining parent signature for consent for placement and services
- Providing the parent with a copy of the IEP
- Ensuring that all general education and special education providers are informed of their responsibilities in the IEP, including accommodations and modifications and have access to a copy of the IEP
- Determining when it is necessary to recess the IEP meeting in order to seek advice or obtain additional information
- Following up on referrals, arrangement for services, or other necessary actions
- Notifying the Director of Special Education of the LEA if consensus could not be reached or if the parent requests a due process hearing

A general education teacher must participate in the IEP meeting if the student is or may be participating in the general education environment. The responsibilities of the general education teacher include:

- Sharing information about the general education curriculum and the general education classroom environment
- Assisting in developing positive behavioral interventions and strategies, if needed
- Assisting in identifying supplemental aids and services, program modifications, and supports for school personnel needed to allow the student to be involved and progress in the general education curriculum and environment

The special education teacher and/or related service provider provides individual information about the student's unique needs, including strengths and weaknesses. Their responsibilities include:

- Identifying the student's present level of academic and functional performance

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- Identifying progress toward identified goals
- Developing measurable annual goals and objectives in all areas of need
- Providing suggestions for maximizing the extent to which the student is educated with non-disabled peers
- Making recommendations for related services, specialized equipment, or assistive technology
- Assisting in developing positive behavioral interventions and strategies, if needed

The IEP Meeting Agenda

The following represents a typical agenda for the annual review meeting:

1. Introduce the participants and set a warm and positive tone for the meeting
2. State the purpose of and review the process for the meeting
 - Review the agenda and timeframe for the meeting
 - Agree to meeting norms or ground rules for interacting
 - Review the procedural safeguards and ask parents if they have any questions
 - Remind all participants that items discussed are confidential and should not be disclosed to anyone not responsible for implementing the IEP
3. Present the results of any assessments and present levels of academic achievement and functional performance
 - Identify the student's strengths, interests and learning preferences
 - How the student's disability effects his/her participation in the general education curriculum
 - What the parent's concerns are regarding educational progress
4. Review progress on current goals and objectives
 - Identify what the student has achieved
 - Identify areas of continued need
5. Develop new goals and objectives designed to
 - Enable the student to participate and make progress in the general education curriculum
 - Address the other educational needs that result from the student's disability
 - Identify how progress will be monitored and when periodic reports of progress will be provided
6. Consider any special factors
 - Behavior that interferes with learning
 - English Learner language needs
 - For visually impaired students, Braille needs
 - For deaf students, language and communication needs
 - Assistive technology devices and services
7. For students age sixteen, or younger if appropriate
 - Measurable postsecondary goals related to training, education, employment and where appropriate independent living skills
 - Transition services needed to assist student in reaching goals

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8. Determine the student's participation in state and district assessments, including the need for alternate assessments
9. Determine special education and related services, supplementary aids and services, and extended school year services, if needed
 - Based on peer reviewed research
 - Provided in the least restrictive environment
10. Obtain parent consent for placement and services.

Transition Services

For each student with a disability, the IEP in effect at the time the student turns age 16, or younger if determined appropriate by the IEP team, shall contain a statement of the transition service needs of the student that focuses on the student's courses of study and measurable goals based upon age-appropriate transition assessments related to post-secondary training/education, competitive integrated employment and when appropriate, independent living skills.

"Transition Services" means a coordinated set of activities for a student with a disability that:

1. is designed within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate movement from school to post-school activities, including post-secondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation;
2. is based on the individual student's needs, taking into account the student's preferences, strengths, and interests; and
3. includes –
 - instruction
 - related services
 - community experiences
 - the development of employment and other post-school adult living
 - if appropriate, acquisition of daily living skills and functional vocational evaluation.

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Offer of FAPE

The written offer of a Free and Appropriate Public Education (FAPE) is the formal offer of placement and services made by the LEA. The purpose of the offer is to allow the parent to have a clear understanding of the services being offered to the student, which they can either accept or deny.

The formal written offer should include:

- The type of program being offered
- The portion of the school day the student will be in the general education class and the necessary accommodations and supplemental supports and services
- Special equipment or assistive technology to be provided

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- Specialized training or support for staff
- Extended school year services, if appropriate

The IEP document is designed to address all of these components. A summary of the offer of FAPE may be included in the notes section. In some cases, it may be necessary to also include other components related to the student's unique needs such as class size, socialization opportunities, or schedule; these should be identified in the comments portion of the related services section of the IEP.

In addition, whenever a LEA proposes or refuses to change the identification, evaluation or placement of a student, they are required to provide prior written notice. The federal regulations at 34 C.F.R Section 300.503 delineates the requirements for prior written notice; which must include:

- A description of the action proposed or refused by the agency
- An explanation why the agency is proposing or refusing the action
- An explanation of any other options the agency considered and why they 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 other factors that are relevant to the agency's proposal or refusal
- A statement that the parents of a child with a disability have protection under the procedural safeguards of the IDEA and the means by which a copy of the procedural safeguards may be obtained
- Sources for the parent to contact to receive assistance in understanding the provisions of the IDEA

In many cases the IEP and the IEP comments will delineate all of the above requirements, however for difficult or complex cases; it is advisable that as a follow-up to the IEP a letter of prior written notice which refers to the IEP and summarizes the offer of educational placement and services be sent to the parent.

Parent Consent

Prior to the provision of special education services, the informed consent of the parent must be obtained. If the parent does not consent to the initial provision of special education services, the LEA may not pursue due process in order to obtain agreement to provide special education services. If the parent refuses to provide consent for initial special education services, the LEA will not be considered in violation of its obligation to provide FAPE.

Parents may consent in part or in whole to the IEP. Once the parent has consented to the IEP, the IEP must be implemented without undue delay. If the parent does not consent in whole to the IEP, the parts of the IEP to which the parent has consented, should be implemented.

Parent Revocation of Consent

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent, in writing, for the continued provision of special education services, the LEA shall provide prior written notice within a reasonable time period before ceasing to provide services to the student. The district shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (34CFR300.300, 300.503)

It is important to note the revocation of consent only applies to the case where the parent is withdrawing the student from all special education services. If the parent disagrees with the continued provision of a particular service that the district feels is necessary for the student to receive a free and appropriate education (FAPE), then the parent may use the established due process procedures to obtain an agreement or ruling that the

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services with which the parent disagrees is not appropriate. The district would continue to provide the disputed service pending the outcome of the due process proceedings.

Once the district has ceased providing special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student. In the context of school discipline, the school would be able to discipline the student in the same manner as any other general education student. In regard to state testing, the student would no longer be eligible to take the CAA or CMA (currently Science only, grades 5 and 8). The student would participate in the state testing program (SBAC) as a general education student and be considered a general education student who exited special education services for accountability purposes.

The district is not required to amend the student's educational records to remove any reference to the student's receipt of special education services. The student's special education files would be treated in the same manner as any other student who exited special education.

The district is relieved of its obligation to provide FAPE under IDEA; however, child find requirements continue to apply. If the student is not making progress in general education, the district should use the student study team process and when appropriate, re-refer the student for assessment for special education services.

If a parent who revoked consent for special education and related services later requests that the student be re-enrolled in special education, the district must treat this as an initial evaluation.

Providing a Copy of the IEP to the IEP Team Members

It is required that the parent be provided a completed copy of the IEP. This typically occurs at the conclusion of the IEP meeting unless the IEP team specifies in writing within the IEP document that a final copy will be provided at a different time. Those individuals who will be responsible for implementing the IEP, such as regular education teachers, special education staff and related service providers must be informed of the content of the IEP. Each person needs to know their specific responsibilities for implementing the IEP, including the accommodations, modifications and supplemental supports the student is to receive as determined by the IEP team.

Amending the IEP

The annual IEP may be amended if necessary. All amendments to the IEP must be in writing and consented to by the parent. There are no restrictions set on the changes to the IEP that can be made through an amendment. All IEP members must be notified of the changes to the IEP. If the parent requests a revised copy of the IEP with the amendments incorporated it must be provided.

Section B – Writing the IEP Based on Common Core State Standards

Standards-Based IEPs

Many may ask, "Why develop standards-based IEPs?" The answer is quite simply that rigorous expectations for students in general education classrooms have implications for students with disabilities. Incorporating standards when developing an IEP challenges special educators to "preserve the rights of individual students within the framework of common standards" (McDonnell, McLaughlin & Morrison, 1997, p. 65).

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Goals and Objectives Aligned to Standards

Consistency across classrooms, schools, districts, and the state is one of the benefits of aligning IEPs to Common Core State Standards (CCSS). When IEP goals reflect Common Core State Standards, special and general educators communicate using a common language. At the student level, targeting instruction to these standards allows students with disabilities access to the general education curriculum.

The IEP bridges current student function to student needs in relation to Common Core State Standards. It is imperative to review assessment results as part of the IEP process. Every student should be assessed throughout the year to verify progress towards meeting identified standards and goals.

The following questions should be considered at an initial IEP meeting and throughout the year:

1. Will the student require supplemental supports and services to meet grade-level standards?
2. Will the student require designated supports or accommodations to demonstrate mastery on statewide assessments?
3. Will the student require a highly-modified curriculum and a focus on functional skills, therefore needing an alternate assessment on statewide assessments?

Choosing Grade-Level Standards for Special Education Students

After assessing the student, the next step is to identify the target standard. Once the student has been assessed, review the results and decide which standard strand is most appropriate for that student. Start at the student's current grade level and begin unpacking the standard through task analysis.

After careful assessment, the case carrier/teacher should be able to accurately identify the portion of a standard that needs to be addressed. Once a portion of a standard is identified as an area of need, the teacher can write the student's goal and/or objectives.

In summary, unpacking the Common Core State Standards are key components to providing students with disabilities the opportunity to learn the general education curriculum. Again, teachers are encouraged to always teach the grade level standards, as appropriate, to ensure students with disabilities have access to the standards and succeed on the state assessments.

Writing Measurable Annual Goals and Objectives/Benchmarks Related to California Content Standards

Develop the Goal and Write an Objective/benchmark

Individualized Education Program (IEP) Goals and Objectives/Benchmarks Required in the IDEA, as Amended in 2004

This section follows the organizational structure of the Association of California School Administrators (ACSA) *Goals and Objectives Handbook*.

One of the changes from IDEA, as amended in 2004, was to eliminate the requirement for objectives/benchmarks for all students with disabilities except those students with disabilities who take the alternate assessment. [20 USC § 1414 (d)(1)(A)(i)(I)]

- A. While some children within a category of disability may share some relevant behavior characteristics and educational needs, the possibility of finding sufficient clusters of children with identical behavior characteristics, identical levels of educational performance, and identical

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educational needs is improbable. Consequently, it is impermissible for public agencies to have the IEP for each student in a class, contain identical statements of present levels of academic achievement.

- B. Even individual test scores may not adequately reflect a student's particular needs. The notice of interpretation states that to the extent possible the statement should be written in objective, measurable terms and in an effort to present objective information. Test scores that are pertinent to the student's diagnosis might be included, if appropriate.
—from Appendix C to 34 CFR § 300, question 36
- C. With regard to prospective review of the adequacy of a student's educational program, proposed placement and services should be analyzed to ensure that all such elements of the student's program are logically and educationally related to achievement of the goals and objectives identified in the IEP. The statement of goals and objectives also highlight gaps in programming. IEP goals should correspond to an identified area of need, and have corresponding items of instruction and services identified. Having goals without related programming indicates that the school district is not providing free, appropriate public education (FAPE).
- D. The IEP definition in 20 USC § 1414(D)(1)(A)(i)(II) provides that the IEP must include the following:
- (II) a statement of measurable annual goals, including academic and functional goals, designed to—
 - (aa) 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
 - (bb) meet each of the child's other educational needs that result from the child's disability
- E. Annual educational goals should be developed that directly correlate with the student's present levels of academic achievement and functional performance, as delineated in the first portion of the student's IEP (34 CFR § 300.346(a)(1))

Goals should not be too broad or vague, nor should they be as specific as the short-term objectives. When developing annual goals, goals should be written to build on the student's strengths. Educators should consider three things: past and present educational performance, the priority of various needs, and the amount of time anticipated for the student to attain each of the goals.

- F. When writing an IEP, it is important to understand the relationship between annual goals and short-term objectives.

Although the IDEA, as amended in 2004, now only requires objectives/benchmarks for students with disabilities who take the alternate assessment. [20 USC § 1414 (d)(1)(A)(i)(I)] IEP teams should determine whether or not to include objectives/benchmarks in the IEP based on the needs of the individual student.

For those students that should have objectives/benchmarks included in their IEPs, annual goals are set for each area in which a student with a disability has an identified need. Those goals are broken down into short-term objectives.

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The Notice of Interpretation on IEP requirements describes annual goals as "statements that describe what a child with a disability can reasonably be expected to accomplish within a twelve-month period in the child's special education program."

The notice also describes how short-term objectives relate to annual goals:

Short-term instructional objectives (also called IEP objectives) are measurable, intermediate steps between the present levels of educational performance of a student with a disability and the annual goals that are established for the student. The objectives are developed based on a logical progression of the major components of the annual goals, and can serve as milestones for measuring progress toward meeting the goals. —from Appendix C to 34 CFR § 300, question 39

Short-term objectives should describe a sub-skill of an annual goal, not merely restate the goal. The objectives are written in a sequential order that reflects a progression through the various skills toward the annual goals. Short-term objectives also permit monitoring of progress throughout the year.

Components of a Performance Goal and Objective/Benchmark

A well-written goal and objective/benchmark communicate the same intended outcome to whomever reads it. A performance goal and objective/benchmark must address six components: who, does what, when, given what, how much (criteria/mastery), and how will it be measured.

Who - the student

- a. This is expressed either by a pronoun or a noun.
- b. It is either singular or plural.
- c. This is the individual who has the responsibility of achieving the objective and whose performance will be observed for evaluation purposes.

Does what— describes observable behavior that the student will do to complete the goal or objective/benchmark

– Observable behavior

- a. This is the measurable and observable behavior that is proof of the performance that will be exhibited.
- b. It is expressed in action words (action verb).
 - Each standard uses verbs to describe a learner outcome.
 - In writing objectives/benchmarks, it is important to use verbs that are open to few interpretations and that require an overt, observable action e.g., write, solve, compare, list, recite, define, construct, read).
- c. The observable behavior represents a state of doing, not a state of being nor observable activities.
 - Correct:
 - Will read aloud
 - Will point to specific letters
 - Incorrect:

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Will be able to read aloud
Will know how to point to specific letters

Note: Never use *be able*, as this represents a state of being, a verb form which is observable. It is an overwriting trap which many objective writers oftentimes fall into.

When—relates to a specific point in time when something will have been learned or completed.

By reporting date

- a. This is the timeline by which the objective/benchmark should be completed.
- b. The actual day and year needs to be written, (e.g., by April 12, 2004).
- c. The dates should be aligned with your objective/benchmark dates to your report card grading periods.
- d. The action is to be assessed and/or terminated by the reporting date given.

Given what—describes the conditions that will need to be in place for the goal or objective/benchmark to be completed.

Conditions

State where, when, and under what circumstances the observable behavior will occur.

- a. This is under what conditions the objective/benchmark will be completed.
- b. This is the setting in which the activity takes place.
- c. This describes the “conditions” that will need to be in place for the objective/benchmark to be completed.

How much - Mastery, criteria

Criteria: State the extent of achievement or standard of performance which is required of the student.

Mastery: State the level of achievement required of the student before proceeding to the next objective. Mastery should be an 80 percent or higher level of success.

- Mastery – describes the performance accuracy of the behavior needed for the goal and objective/benchmark to be considered completed.
 - Criteria – describes how many times the behavior must be observed for the goal or objective/benchmark to be considered completed.
- a. Although not law, best practice includes both trials and accuracy.
 - b. Refers to the acceptable level of mastery successfully obtained in the assessment condition.
 - c. Unless stated, the implication is without error, 100 percent or perfect performance.

How will it be measured – describes performance data

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- Performance data
 - a. Methods of measurement may include student work samples, various data collection strategies, portfolios, teacher observations, and summative and formative assessments.
 - b. The assessment condition activity, if not stated, is implied as being some form of observation by the supervisor, teacher, or manager in charge of the activity or program who can hold the performer accountable
 - c. Also implies that the observer will be reporting the results of observation to the performer.

Two Examples of a Performance Goal

- Reading/Language Arts, Sample Goal:

By Date, after reading a 4th grade reading passage, Student will summarize the text by providing explicit details and identify the page and/or paragraph where the details can be found in 4/5 opportunities with 80% accuracy as measured by teacher record and work samples.

- Behavior, Sample Goal:

By Date, when given different scenarios, Student will state what would be an appropriate response to a particular emotional state in 4/5 opportunities as measured by counselor/teacher record.

Characteristics of Present Levels of Academic Achievement and Functional Performance

In general, the present level of academic achievement and functional performance addresses current information obtained from various sources. These sources should include the general education teacher, parent(s) and other IEP team members. If relevant and appropriate, information from evaluations reports may be included.

Present levels of academic achievement and functional performance:

1. Are useful for instructional planning
2. Include academic as well as non-academic areas such as daily living skills, communication, and interpersonal skills
3. Describe the effect of a student's disability on educational performance
4. Are based on assessment data results
5. Determine student's current baseline

Five Compliance Requirements for the Present Level of Academic Achievement and Functional Performance

<p>Compliance requires a statement of the child's present level of academic achievement and functional performance that:</p>	<p>Best Practice suggests that the present level of academic achievement and functional performance should include:</p>
<p>1. Addresses how the child's disability affects her/his involvement and progress in the general education curriculum</p> <ul style="list-style-type: none"> • For pre-school children, as appropriate, the statement of compliance addresses how the 	<ul style="list-style-type: none"> • The student's needs as it relates to access to the general education curriculum (i.e., common core state standards) and general education placement • The student's involvement with peers without disabilities in the general pre-school activities • California Alternate Assessment

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<p>disability affects the child's participation in appropriate activities</p> <ul style="list-style-type: none"> • For children with disabilities who take alternate assessments aligned to alternate achievement standards, the statement of compliance is a description of benchmarks or short-term objectives <p>One of the changes from IDEA, as amended in 2004, was to eliminate the requirement for objectives/benchmarks for all students with disabilities except those students with disabilities who take alternate assessment. [20 USC § 1414 (d)(1)(A)(i)(I)]</p>	
<p>2. Addresses the strengths of the child and the concerns of the parent for enhancing the education of their child. This is not a requirement, but it should be a strong consideration</p>	<ul style="list-style-type: none"> • Information from parents, teachers, and others who have daily interaction with the child • Language that is clearly understood by parents and reflects the parents' concerns about their child's educational program
<p>3. Lists measurable annual goals, including academic and functional goals designed to:</p> <p>(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</p> <p>(b) meet each of the child's other educational needs that result from the child's disability</p>	<ul style="list-style-type: none"> • Information drawn from teacher-validated classroom observations of daily work (assignment, projects, journals, etc.) • A clear foundation for the development of measurable goals, objectives and benchmarks • Use of curriculum baseline data to provide information about current functioning of the child in quantitative terms <p>Note: Consider using tests and assessments that are criterion-referenced or curriculum-based during the evaluation process. These instruments and procedures are particularly useful for planning relevant instruction because the student is measured against his or her own performance rather than against norms established by other children's performance. These tests also are related to what is happening in the day-to-day curriculum and in day-to-day classroom assessment. Criterion-referenced and curriculum-based test and assessments generally follow the development of skills along a continuum of objectives, within the district's curriculum.</p>
<p>4. Describes how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress will be reported (i.e., report card reporting periods)</p>	<p>Goals and benchmarks aligned with report card periods</p>

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<p>5. Refers to special education and related services and supplementary aids</p>	<ul style="list-style-type: none">• A discussion of state- and district-wide assessments results in relation to grade level peers and/or specific skills. Do not list scores (or scores as percentiles), but integrate the discussion of state- and district-wide assessment results into the Present Level of Academic Achievement and Functional Performance as strengths or concerns addressed by subject areas.• A short and simple statement to specify how the concern is going to be addressed through general education if the concern is not related to the disability <p>Note: Examples can include an explanation of Title I services, differentiated instruction in the general education classroom, remedial reading, after school tutoring, building level support team, Response to Intervention (RtI), etc.</p>
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—adapted from 20 USC § 1414(d)(1)(A)(i)

Setting Goals

1. Locate the student's baseline level of performance in the Common Core State Standards (CCSS) or district standards. Look at the state/district standards in the area of student need and identify skills for further development. State/district standards in the grades above and below the student should also be considered. It will be helpful to use the list of "selected standards" developed in the Goals and Objectives Handbook. The selected standards drive the team consideration for areas of focus.

2. Consider rate of learning

- How long did it take the student to get there?
- What is a reasonable calculation of this student's achievement in one year's time?

3. Write annual goal

- At the end of one year, what will the student accomplish?
- Coordinate the student's instructional needs with the appropriate state/district content standards.
- The annual goal must be measurable and observable.

4. Determine first objective/benchmark

- This is the first step in meeting the annual goal.
- It must be measurable and observable.
- Determine due date; consider using general education reporting period deadlines.

5. Determine second objective/benchmark

- This is the second step in meeting the annual goal.
- It must be measurable and observable.
- Determine due date; consider using general education reporting period deadlines.

Remember:

- All annual goals must be written in observable, measurable terms.
- Each annual goal must have at least two objectives/benchmarks.

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- Parents must receive documentation of progress on annual goals as frequently as general education students receive progress notices. It makes good sense to align objectives/benchmarks with regular reporting periods. For example, report progress at each report card reporting period.

Characteristics of Usable Performance Goals and Objectives/Benchmarks

Usable performance goals and objectives/benchmarks include the following characteristics:

1. They are measurable and observable—that is, capable of being seen and/or proven.
2. They are specific.
3. They are usable, simple, and clear in their language.
4. They communicate the same intent to all who use them, so people using them will know what is expected.
5. They represent real and significant needs, problems, and/or tasks.
6. They are achievable within the time frame provided and are realistic.
7. They are developed by the individual or group that is involved in their identification or by the individual or group that will have to use them.

Remember: The IEP goals and objectives/benchmarks bridge current student functioning with state or district content standards.

Checklist

Checklist for Goals	Yes	No
1. Are the goals clear and understandable?		
2. Are the goals stated in positive terms?		
3. Is there at least one goal for each area of need?		
4. Are the goals based upon the present levels of performance statements?		
5. Are the goals practical and relevant when the student's academic, social, and vocational needs are considered?		
6. Are the goals measurable?		
7. Do the goals describe what the student can reasonably be expected to accomplish within one year?		
8. Are the goals and objectives/benchmarks aligned with state and district standards?		
9. Are transition goals based on student preferences and desires?		
10. Have the general education standards been used as appropriate when developing the goals and objectives?		
11. Do the short-term objectives/benchmarks represent a task analysis of the annual goals?		

Section C - Students Who Are Culturally and Linguistically Diverse

Students who are culturally and linguistically diverse have four initial areas of consideration for their school program. First, the language of instruction is considered. According to the Individuals with Disabilities Education Act (IDEA) some students will need special education, which could include a related service (e.g. speech and language services). While language diversity may be one of the most frequently discussed topics concerning academic achievement, it is important for an IEP team to consider and document the effect of a student being a second-language learner on his or her ability to make progress in the general education curriculum.

To choose the language of instruction the IEP team considers where on the continuum of language acquisition the student assesses for both the primary language and English. The Speech-Language Pathologist is consulted to interpret the student's pragmatic and socialization aspects of language, which include eye contact, facial expression, nonverbal messages and tone. These assessment data are used to determine if errors are made because of lack of exposure to the curriculum and if exposure has been adequate to master the primary language. A determination is made if the student is struggling with second-language learning or has one or more disabilities that impact learning progress.

Questions developed by Ortiz and Garcia (1988) guide the IEP team through this decision process:

1. What is the student's dominant language in various settings?
2. What is the student's level of proficiency in both the primary language and English for social and academic language?
3. What are the styles of verbal interaction used in the primary language and English?
4. How much exposure has the student had to verbal interactions in English?
5. What is the source of exposure to each language (family, peers, TV, book reading, etc.)?
6. Are the student's language behaviors characteristic of other second language learners?
7. What types of language intervention has this student already had and what is the duration and outcome of those interventions?

For further information, refer to Education Code Sections 420-428.

The second area of consideration for English Learners is for authorization of the teacher to provide instruction. Contact your district office to verify appropriate certification for teachers of students who are English learners and who are receiving the core curriculum in English and for those students who are English learners, but are learning core curriculum in their primary language.

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California Commission on Teacher Credentialing (CCTC) Requirements

DOCUMENT	ELD ²	SDAIE ²	Primary Language Instruction ²
Multiple or Single Subject Teaching Credential with English Learner Authorization or CLAD Emphasis	X	X	
Multiple or Single Subject Teaching Credential with Bilingual Authorization or BCLAD Emphasis	X	X	X
Education Specialist Instruction Credential with English Learner Authorization	X	X	
Bilingual Cross Cultural Specialist Credential	X	X	X
CLAD Certificate	X	X	
Bilingual Authorization	X	X	X
Language Development Specialist (LDS) Certificate ⁵	X	X	
BCLAD Certificate ⁵	X	X	X
Bilingual Certificate of Competence (BCC) ⁵	X	X	X
General Teaching Credential ³	X		
Single Subject Teaching Credential in World Language: ELD Content Area ⁹	X	X	
Supplementary Authorization in English as a Second Language (ESL) or Introductory ESL ⁵	X		
University Intern Credential with English Learner Authorization or CLAD Emphasis	X	X	
University Intern Credential with a Bilingual Authorization or BCLAD Emphasis	X	X	X
District Intern Credential with English Learner Authorization	X	X	
District Intern Credential with a Bilingual Authorization or BCLAD Emphasis	X	X	X
Clear Designated Subjects Career Technical Education Credential ⁷		X	
Emergency CLAD Permit	X	X	
Emergency BL Permit	X	X	X
Provisional Internship Permit/Short-Term Staff Permit with English Learner Authorization	X	X	
Provisional Internship Permit/Short-Term Staff Permit with Bilingual Authorization ⁸	X	X	X
Certificate of Completion of Staff Development ⁴	X	X	
Certificate of Completion of Staff Development (SB 1969) ^{4,6}	X	X	

¹Some of the authorizations have restrictions related to grade level and subject.

²ELD (Instruction for English Language Development); SDAIE (Specially Designed Academic Instruction Delivered in English); Primary Language Instruction (Instruction for primary language development and content instruction delivered in the primary language)

³No longer initially issued but may be renewed. Although the holder may legally be assigned to teach ELD, the CCTC does not recommend this assignment unless the holder possesses skills or training in ELD teaching.

⁴Option for authorizing ELD with the grade, setting, and content area of the credential applies only for teachers holding Multiple Subject, Single Subject, or Education Specialist Credentials (this option had a sunset date of January 1, 2008). See Coded Correspondence 07-16. Some authorizations have restrictions based on the methods used to qualify for the certificate. Authorizes SDAIE only for holders of the Designated Subjects Career Technical Education and Special Subjects Teaching Credentials and Services Credentials with a Special Class Authorization.

⁵No longer issued but holders of these documents may continue to serve on these documents.

⁶Never resulted in the issuance of a certificate. The Commission served as a repository of program completion only.

⁷Only applies to the clear CTE credential. The five year preliminary CTE credential program does not contain SDAIE embedded coursework or provide a SDAIE authorization.

⁸May be issued with the bilingual authorization when accompanied by proof of target language proficiency.

⁹Separate EL authorization will not be added to a credential issued in this content area.

(Source: <http://www.ctc.ca.gov/credentials/leaflets/cl622.pdf>)

References: California Education Code 44203, 44253.2-44253.10; CCR Title 5 80015-80016, 80021 and 800021.1, 80024.1-80024.2.1, 80024.7, and 80024.8

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Another consideration is the use of interpreters and translators. It is noted that interpretation is for oral language, while translation refers to written language. Using an interpreter or translator is a method of choice when the speech-language pathologist who is assigned to provide therapy is not fluent enough to provide therapy in both languages. Guidance is provided for service delivery in a resource titled Working Successfully with Interpreters and Translators in Speech-Language Pathology and Audiology, written by Langdon and Cheng.

Students with accents and dialects may be referred for special education services, speech-language services, or viewed as low achievers. Current efforts by the American Speech and Hearing Association, ASHA, consider these referrals misguided. The organization is attempting to avoid these potential discriminatory actions. An accent is defined as a phonetic trait from a primary language that is carried over to the way a second language is spoken. The level of pronunciation of an accent on the second language depends upon the age and circumstances under which the second language was acquired. A dialect is defined as differences that make one English speaker's speech different from another. Dialects have distinguishing characteristics, which may include: phonology, morphology, semantics, syntax, or pragmatics.

Dialects and accents are considered language variations that are accepted differences in speech (Cole, 1983). A determination by the IEP team to provide special education services must be grounded on what students who are culturally and linguistically diverse need to be successful based on academic standards, not on accent or dialect differences.

The fourth and final consideration, working with families, is one that shows respect and increases the possibility of carry-over from school interventions to the home setting. In addition to cohesive planning during the IEP process, family literacy programs supported by the LEA have been especially meaningful for those who are culturally and linguistically diverse.

The information for this section is attributed to Barbara J. Moore-Brown and Judy K. Montgomery. Their book, Making a Difference for America's Children, Speech-Language Pathologists in Public Schools, 2001, is available from Thinking Publications.

Section D – Teaching and Assessing California's English Language Development (ELD) and English-Language Arts (ELA) Standards for English Learners

Current thinking for competent language proficiency for all students has shifted from using language arts standards from an earlier grade level to using ELD standards that follow a research-based progression from beginning to advanced language skills, and provide intermediate skills that EL students need. Additionally, the shift for future development is away from isolated use of ELD instruments toward the use of assessments representative of ELA standards.

As of 2012, the State Board of Education adopted new English Language Development Standards. The California Department of Education (CDE) must ensure that the state test of English Language Proficiency is aligned to the 2012 ELD standards. The proposed transition timeline from the California English Language Development Test (CELDT) to the English Language Proficiency Assessments for California (ELPAC) is as follows:

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CELDT TO ELPAC PROPOSED TRANSITION TIMELINE

Assessment Type	2015-16	2016-17	2017-18	2018-19
ELPAC Pilot Testing	December 2015	N/A	N/A	N/A
Field Test Administration (No scores reported)	N/A	ELPAC Summative (Spring 2017)	ELPAC Initial (Fall 2017)	N/A
Operational Administrations (Scores reported)	CELDT	CELDT	CELDT Initial Only ELPAC Summative (Spring 2018)	ELPAC Initial (July 1, 2018) ELPAC Operational (Initial and Summative)

(Source: <http://www.cde.ca.gov/ta/tg/ep/celdttoelpactimeline.asp>)

Goals of the California English Language Development Standards

ELs must have full access to high-quality English language arts, mathematics, science, and social studies content, as well as other subjects, at the same time that they are progressing through the ELD-level continuum. The CA ELD Standards correspond with the CA CCSS for ELA/Literacy and are designed to apply to English language and literacy skills across all academic content areas, in addition to classes specifically designed for English language development. The CA CCSS for ELA/Literacy raise expectations for all students in California. Among other things, students are expected to participate in sustained dialogue on a variety of topics and content areas; explain their thinking and build on others' ideas; construct arguments and justify their positions persuasively with sound evidence; and effectively produce written and oral texts in a variety of informational and literary text types. ELs must successfully engage in these challenging academic activities while simultaneously developing proficiency in advanced English. The CA ELD Standards are intended to support this dual endeavor by providing fewer, clearer, and higher standards:

- Fewer: Those standards that are necessary and essential for development and success
- Clearer: A coherent body of standards that have clear links to curriculum and assessments
- Higher: Alignment with the elevated standards of the CA CCSS for ELA/Literacy The CA ELD Standards achieve this goal of fewer, clearer, and higher standards in two ways.

The CA ELD Standards highlight and amplify those CA CCSS for ELA/Literacy that promote ELs' abilities to interact in meaningful ways during rich instruction so that they develop both English and content knowledge. In addition, the CA ELD Standards guide teachers to build ELs' knowledge about how the English language works in different contexts to achieve specific communicative purposes. These ELD Standards also emphasize specific linguistic processes (e.g., structuring cohesive texts) and linguistic resources (e.g., expanding sentences) that ELs need to develop in the context of rigorous academic learning for successful academic achievement.

By focusing on these two areas, educators can more effectively support all ELs to:

- read, analyze, interpret, and create a variety of literary and informational text types;
- develop an understanding of how language is a complex, dynamic, and social resource for making meaning and how content is organized in different text types and disciplines using text structure, language features, and vocabulary, depending on purpose and audience;

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- be aware that different languages and variations of English exist and recognize their home languages and cultures as resources to value and draw upon in building proficiency in English;
- contribute actively to class and group discussions, asking questions, responding appropriately, and providing useful feedback;
- demonstrate knowledge of content through oral and multimedia presentations, writing, and collaborative conversations;
- develop proficiency in shifting register based on context.

Rationale for Three Proficiency Levels

The CA ELD Standards adopted in 2012 define three proficiency levels: Emerging, Expanding, and Bridging. These levels are intended to serve instructional purposes and do not necessarily represent the full range of performance levels in English language proficiency that may be determined by a standardized ELD assessment. A rigorous standard-setting process applied to actual assessment results may identify a different number of performance levels at various cut points along the proficiency level continuum; it is these performance levels that will be used to support determinations of placement, progress, and redesignation of ELs for diagnostic and accountability purposes

Organization of the Proficiency Level Descriptors (PLD)

The organization of the PLDs represents English language development as a continuum of increasing proficiency in language learning and use, starting with native language competencies that students possess when they enter school, and concluding (though not ending) with lifelong language learning that all language users engage in.

The three levels represent the stages of English language development, describing expectations for how well students can understand and use the English language at each level as they continue to build on existing language skills and knowledge.

Emerging: Students at this level typically progress very quickly, learning to use English for immediate needs as well as beginning to understand and use academic vocabulary and other features of academic language.

Expanding: Students at this level are challenged to increase their English skills in more contexts and learn a greater variety of vocabulary and linguistic structures, applying their growing language skills in more sophisticated ways that are appropriate to their age and grade level.

Bridging: Students at this level continue to learn and apply a range of high level English language skills in a wide variety of contexts, including comprehension and production of highly technical texts. The “bridge” alluded to is the transition to full engagement in grade-level academic tasks and activities in a variety of content areas without the need for specialized ELD instruction. However, ELs at all levels of English language proficiency fully participate in grade-level tasks in all content areas with varying degrees of scaffolding in order to develop both content knowledge and English.

The PLDs emphasize that ELs at all proficiency levels are capable of high-level thinking and can engage in complex, cognitively demanding social and academic activities requiring language, as long as they are provided appropriate linguistic support. The extent of support needed varies depending on the familiarity and complexity of the task and topic, as well as on the student’s English language proficiency level. Within the PLDs, three general levels of support are identified: Substantial, Moderate, and Light. The descriptors for these general levels of support are intended to signal the extent of linguistic scaffolding most likely needed for appropriately implementing the CA ELD Standards at each proficiency level; however, the descriptors are not intended to explain how to provide support or differentiate instruction for ELs at each level. Note that the

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concept of “lifelong language learning” for proficient users of English (as well as other languages) is distinct from that of “long-term English learners” who have not been supported to progress to full proficiency in English.

Each PLD includes the following:

- **Overall Proficiency:** A general descriptor of ELs' abilities at entry to, progress through, and exit from the level
- **Early Stages:** Descriptors of abilities in English language that ELs have at the early stages of the level
- **Exit Stages:** Descriptors of abilities in English language students have at exit from the level

The descriptors for early and exit stages of each proficiency level are detailed across three modes of communication:

- A. **Collaborative:** Engagement in dialogue with others
- B. **Interpretive:** Comprehension and analysis of written and spoken texts
- C. **Productive:** Creation of oral presentations and written texts

Two dimensions of knowledge of language are described:

- **Metalinguistic Awareness**
 - The extent of language awareness and self-monitoring that students have at the level
- **Accuracy of Production**
 - The extent of accuracy in production ELs can be expected to exhibit at the level; ELs increase in accuracy of linguistic production as they develop proficiency in English. Accuracy may vary within a level depending on context, such as extent of cognitive demand or familiarity of a task.

California Department of Education (CDE)

Language Proficiency & Academic - Accountability Team --aau@cde.ca.gov 916-319-0863
Procedural Safeguards Referral Service speceducation@cde.ca.gov 800-926-0648
ConApp Support Desk conappsupport@cde.ca.gov 916-319-0297
Federal Program Monitoring Office fpmoffice@cde.ca.gov 916-319-0935
Language Policy and Leadership Office 916-319-0845
Categorical Programs Complaints Management Office 916-319-0929

The OCR office for California is located at:

San Francisco Office
Office for Civil Rights
U.S. Department of Education
50 United Nations Plaza
San Francisco, CA 94102

Telephone: 415-486-5555
FAX: 415-486-5570; TDD: 800-877-8339
Email: ocr.sanfrancisco@ed.gov

The OCR National Headquarters is located at:

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Section E – Linguistically Appropriate Goals and Objectives for English Learners

According to the California Special Education Programs – Composite of Laws, linguistically appropriate goals, objectives, and programs are:

- 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),
- Include 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.

Areas to be addressed in developing a linguistically appropriate IEP include the following:

- The student's language classification and degree of proficiency.
- Identification and description of the student's learning disability.
- The student's current educational performance in his primary language and in English as measured by California's ELD and ELA standards.
- The degree to which the student's disability might impact his/her level of educational performance in both languages.
- A description of activities, including related services, which are directed at the remediation of the specific disability with clear indications of the extent to which the student's primary language will be utilized in this process.
- If the student is to be taught in his primary language, statements regarding the duration of primary language instruction prior to the introduction of English instruction shall be made.
- If the student is to be taught using bilingual instruction, statements regarding the appropriateness of primary language usage versus English in selected instructional areas shall be made.
- If the student is to be taught using all English instruction, a statement regarding the rationale for all English instruction shall be made.
- The amount of mainstreaming into regular education programs with the student's own language peers and/or English peers shall be included.
- An indication of the personnel and/or other programs that will be needed in order to meet the stated goals and objectives shall be made.
- The date of initiation and duration of all programs and services shall be stated.
- There shall be clear, objective criteria and dates for evaluation of the goals and objectives.
- A plan for coordination of services shall be written with specifics regarding which language will be used in which instructional setting.

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- In addition to the above IEP components, all English Learners must have the following educational components provided to them.

A program of English Language Development should promote the development of proficiency in English as effectively and efficiently as possible. This must be appropriate for their identified level of language proficiency.

Sample Goals

Goals and objectives for special education students who are English learners should reflect the English Language Development Standards prepared by the Standards and Assessment Division of the California State Department of Education. This document may be downloaded from the website address <http://www.cde.ca.gov/sp/el/er/documents/sbeoverviewpld.pdf> . Best practice would be to incorporate the ELD standards into all goals and objectives where language is referenced, which may include, but is not limited to, goals for speech, reading, writing, listening, speaking, math reasoning, etc. Goals should indicate which standards were referenced in order to develop the linguistically appropriate goal. The second sample of linguistically appropriate goals and objectives listed below (Writing) includes an example of how to reference standards. Separate ELD goals do not need to be developed as English language development is not part of the student's disability; Goals and objectives should reflect the educationally related needs of the student that result from the student's disability and, in the instance when the student is also an English learner, the goals should be linguistically appropriate based on the student's level of proficiency in the language of instruction.

Reading

Goal: By date, (the student) will recognize and produce ten phonemes that are like phonemes (the students) hears and produces in (his/her primary language) with 90% accuracy, in 3 out of 4 consecutive trials, as measured by teacher's charted observation.

Objective: By date, the student will recognize and produce ten consonants that are produced in his native language with 100% accuracy, in 3 out of 4 consecutive trials, as measured by teacher's charted observation.

Objective: By date, the student will recognize and produce the five vowel sounds from his native language with 100% accuracy, in 3 out of 4 consecutive trials, as measured by teacher's charted observation.

Writing

Goal: By date, (the student) will write ten simple sentences on a given topic using key academic words commonly used in the classroom; e.g., labels, number names, days of the week and months, with 90% accuracy, in 4 out of 5 consecutive trials, as measured by student writing samples.

Objective: By date, (the student) will copy a simple sentence from a model using commonly used academic words, colors, labels, days of the week, etc. with 100% accuracy on ten assignments over five class meetings as measured by student writing samples.

Objective: By date, (the student) will write a single word from memory using key academic words commonly used in the classroom; e.g., colors, labels, number names, etc. with 100% accuracy, in 4 out of 5 consecutive trials, as measured by student writing samples.

Objective: By date, (the student) will write five simple phrases on a given topic using key words commonly used in the classroom; e.g., labels, number names, days of the week and months with 90% accuracy, in 4 out of 5 consecutive trials, as measured by student writing samples.

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Enables student to be involved/progress in general curriculum/state standard:

- Writing, Grade 4, Standard 4 (W.4.4)
- Writing, Grade 2, Standard 4 (W.2.4)
- English Language Development, Part I, Grade 4, Standard 12a, Emerging Proficiency Level (ELD.PI.4.12a.Em)

Speaking and Listening

Goal: By date, (the student) will ask and answer five instructional questions daily using simple sentences with or without gestures with 100% accuracy, in 4 out of 5 trials, as measured by teacher's charted observation.

Objective: By date, (the student) will answer an instructional question with a one-word response and/or gestures with 100% accuracy on ten questions over three class sessions as measured by teacher's charted observation.

Objective: By date, (the student) will answer an instructional question with a simple-sentence response with or without gestures with 100% accuracy on ten questions over three class sessions as measured by teacher's charted observation.

Objective: By date, (the student) will ask a question using a who, what, or where format with 90% accuracy on ten questions over three class sessions as measured by teacher's charted observation.

APPENDIX A

Questions and Answers

On Individualized Education Programs (IEPs), Evaluations, and Reevaluations

Revised September 2011

(Revised F-1 and F-3)

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. In addition, supplemental Part B regulations were published on December 1, 2008, and became effective on December 31, 2008. 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 States, State educational agencies (SEAs), local educational agencies (LEAs), parents, and other stakeholders with information regarding the IDEA requirements relating to individualized education programs (IEPs), evaluations, and reevaluations. 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. This Q&A document supersedes the Department's guidance, entitled: Questions and Answers on Individualized Education Programs (IEPs), Evaluations and Reevaluations, Revised June, 2010.

Generally, the questions and corresponding answers presented in this Q&A document required interpretation of the IDEA and its implementing regulations; 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 IEPs, Evaluations and Reevaluations in the subject of your e-mail, or write to us at the following address: Ruth Ryder, U.S. Department of Education, Potomac Center Plaza, 550 12th Street, SW, room 4108, Washington, DC 20202.

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A-2. What options are available when an out-of-state transfer student cannot provide a copy of his/her IEP, and the parent identifies the “comparable” services that the student should receive?

A-3. Is it permissible for a public agency to require that a student with a disability who transfers from another State with a current IEP that is provided to the new public agency remain at home without receiving special education and related services until a new IEP is developed by the new public agency?

A-4. What is the timeline for a new public agency to adopt an IEP from a previous public agency or to develop and implement a new IEP?

A-5. What happens if a child with a disability who has an IEP in effect transfers to a new public agency or LEA in a different State and the parent refuses to give consent for a new evaluation?

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B-2. Must the assessments and other evaluation measures used to determine eligibility for special education and related services include a doctor’s medical diagnosis, particularly for children suspected of having autism or attention deficit disorder/attention deficit hyperactivity disorder?

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C-1. May the representative of the public agency be excused from attending an IEP Team meeting?

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- C-2. May more than one member of an IEP Team be excused from attending the same IEP Team meeting?
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- C-4. If the designated regular education teacher is excused from attending the IEP Team meeting, would an alternate regular education teacher be required to attend?
- C-5. Is there a specific timeline in the IDEA for public agencies to notify parents of a request to excuse an IEP Team member from attending an IEP Team meeting? May a State establish a timeline for this purpose?
- C-6. May State law or regulations regarding IEP Team membership and IEP Team meeting attendance requirements exceed those of the IDEA?
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- C-8. How must a public agency document that IEP Team members have been informed of changes to the IEP?
- C-9. Who must participate in making changes to the IEP when an IEP is amended without convening an IEP Team meeting pursuant to 34 CFR §300.324(a)(4)(i)?
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- D-1. Must a public agency obtain parental consent, or the consent of a child with a disability who has reached the age of majority, to invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services to an IEP Team meeting conducted in accordance with 34 CFR §300.321(b)(3)? Do the words “to the extent appropriate” impose a limitation on this requirement?
- D-2. Must a public agency pursue the initial evaluation of a child using the procedural safeguards outlined in subpart E of 34 CFR Part 300 in every case where a parent refuses to provide consent for an initial evaluation?

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- D-3. What may a public agency do if a parent does not respond to the public agency's request for the parent to provide consent to a reevaluation?
- D-4. The regulations provide, in 34 CFR §300.303(b)(2), that a reevaluation must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary. What options are available to a public agency if a parent believes that the public agency should continue to provide special education and related services to their child but refuses to consent to a three-year reevaluation under 34 CFR §300.303(b)(2)?
- D-5. Does the requirement that a public agency obtain parental consent for the initial provision of special education and related services mean that parents must consent to each service included in the initial IEP developed for their child?
- D-6. What recourse is available to parents who consent to the initial provision of special education and related services but who disagree with a particular service or services in their child's IEP?
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- E-2. Is a public agency responsible for paying for mental health services if the IEP Team determines that a child with a disability requires these services to receive FAPE and includes these services in the child's IEP?

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- F-1. Must an IEP include measurable postsecondary goals relating to training, education, and employment based on age-appropriate transition assessments for every student with a disability who is at least 16 years old, regardless of the student's skill levels? When is a separate goal also required for independent living skills?
- F-2. May community access skills be included in the IEP as independent living skills?
- F-3. If an IEP Team chooses to address transition before age 16 (for example, at age 14), do the same requirements apply?
- F-4. The regulations in 34 CFR §300.320(b)(1) require that appropriate postsecondary transition goals be measurable. Must public agencies measure goals once a student has graduated or has aged out?

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A. Transfer of Students with IEPs from One Public Agency to a New Public Agency

Authority: The requirements for IEPs for students who transfer from one public agency to a new public agency within the same school year are found in 34 CFR §300.323(e), (f), and (g). The requirements governing parental consent for initial evaluations are found in 34 CFR §300.300(a).

Question A-1: What if a student whose IEP has not been subject to a timely annual review, but who continues to receive special education and related services under that IEP, transfers to a new public agency in the same State? Is the new public agency required to provide a free appropriate public education (FAPE) from the time the student arrives?

Answer: If a child with a disability who received special education and related services pursuant to an IEP in a previous public agency (even if that public agency failed to meet the annual review requirements in 34 CFR §300.324(b)(1)(i)) transfers to a new public agency in the same State and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must, pursuant to 34 CFR §300.323(e), provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either (1) adopts the child's IEP from the previous public agency; or (2) develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR §§300.320 through 300.324.

Question A-2: What options are available when an out-of-state transfer student cannot provide a copy of his/her IEP, and the parent identifies the "comparable" services that the student should receive?

Answer: The regulations in 34 CFR §300.323(g) require that, to facilitate the transition for a child described in 34 CFR §300.323(e) and (f)--

(1) the new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR §99.31(a)(2); and

(2) the previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

After taking reasonable steps to obtain the child's records from the public agency in which the child was previously enrolled, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, if the new public agency is not able to obtain the IEP

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from the previous public agency or from the parent, the new public agency is not required to provide special education and related services to the child pursuant to 34 CFR §300.323(f).

Even if the parent is unable to provide the child's IEP from the previous public agency, if the new public agency decides that an evaluation is necessary because it has reason to suspect that the child has a disability, nothing in the IDEA or its implementing regulations would prevent the new public agency from providing special education services to the child while the evaluation is pending, subject to an agreement between the parent and the new public agency. However, if the child receives special education services while the evaluation is pending, the new public agency still must ensure that the child's evaluation, which would be considered an initial evaluation, is conducted within 60 days of receiving parental consent for the evaluation or within the State-established timeframe within which the evaluation must be conducted, in accordance with 34 CFR §300.301(c)(1). Further, under 34 CFR §300.306(c)(1)-(2), if the new public agency conducts an eligibility determination and concludes that the child has a disability under 34 CFR §300.8 and needs special education and related services, the new public agency still must develop and implement an IEP for the child in accordance with applicable requirements in 34 CFR §§300.320 through 300.324 even though the child is already receiving special education services from the new public agency.

If there is a dispute between the parent and the new public agency regarding whether an evaluation is necessary or the special education and related services that are needed to provide FAPE to the child, the dispute could be resolved through the mediation procedures in 34 CFR §300.506 or, as appropriate, the due process procedures in 34 CFR §§300.507 through 300.516. If a due process complaint requesting a due process hearing is filed, the public agency would treat the child as a general education student while the due process complaint is pending. 71 FR 46540, 46682 (Aug. 14, 2006).

Question A-3: Is it permissible for a public agency to require that a student with a disability who transfers from another State with a current IEP that is provided to the new public agency remain at home without receiving special education and related services until a new IEP is developed by the new public agency?

Answer: No. Under 34 CFR §300.323(f), if a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency (1) conducts an evaluation pursuant to 34 CFR §§300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) develops and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR §§300.320 through 300.324.

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Thus, the new public agency must provide FAPE to the child with a disability when the child enrolls in the new school in the public agency in the new State, and may not deny special education and related services to the child pending the development of a new IEP.

Question A-4: What is the timeline for a new public agency to adopt an IEP from a previous public agency or to develop and implement a new IEP?

Answer: Neither Part B of the IDEA nor the regulations implementing Part B of the IDEA establish timelines for the new public agency to adopt the child's IEP from the previous public agency or to develop and implement a new IEP. However, consistent with 34 CFR §300.323(e) and (f), the new public agency must take these steps within a reasonable period of time to avoid any undue interruption in the provision of required special education and related services.

Question A-5: What happens if a child with a disability who has an IEP in effect transfers to a new public agency or LEA in a different State and the parent refuses to give consent for a new evaluation?

Answer: Under 34 CFR §300.323(f), if a child with a disability (who has an IEP in effect) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency (1) conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) develops and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324. Nothing in 34 CFR §300.323(f) would preclude the new public agency in the new State from adopting the IEP developed for the child by the previous public agency in another State. If the new public agency determines that it is necessary to conduct a new evaluation, that evaluation would be considered an initial evaluation because the purpose of that evaluation is to determine whether the child qualifies as a child with a disability and to determine the educational needs of the child. 71 FR 46540, 46682 (Aug 14, 2006). The public agency must obtain parental consent for such an evaluation in accordance with 34 CFR §300.300(a). However, 34 CFR §300.300(a)(3)(i) provides that if a parent does not provide consent for an initial evaluation, or fails to respond to a request to provide consent, the new public agency may, but is not required to, pursue the initial evaluation by utilizing the Act's consent override procedures, if permissible under State law. The Act's consent override procedures are the procedural safeguards in subpart E of 34 CFR Part 300 and include the mediation procedures under 34 CFR §300.506 or the due process procedures under 34 CFR §§300.507 through 300.516.

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Because the child's evaluation in this situation is considered an initial evaluation, and not a reevaluation, the stay-put provision in 34 CFR §300.518(a) does not apply. The new public agency would treat the student as a general education student and would not be required to provide the child with comparable services if a due process complaint is initiated to resolve the dispute over whether the evaluation should be conducted. 71 FR 46682. Also, 34 CFR §300.300(a)(3)(ii) is clear that the public agency does not violate its obligation under 34 CFR §§300.111 and 300.301 through 300.311 (to identify, locate, and evaluate a child suspected of having a disability and needing special education and related services) if it declines to pursue the evaluation. Similarly, if the parent does not provide consent for the new evaluation and the new public agency does not seek to override the parental refusal to consent to the new evaluation, the new public agency would treat the student as a general education student.

B. Initial Evaluation Timelines and Determination of Eligibility

Authority: The requirements for initial evaluation timelines are found in 34 CFR §300.301(c) and (d). The requirements for determining eligibility are found in 34 CFR §300.306.

Question B-1: Under the IDEA, what must occur during the 60-day time period after the public agency receives parental consent for an initial evaluation? Must a public agency determine eligibility and begin providing special education and related services within this IDEA 60-day initial evaluation timeline?

Answer: Under 34 CFR §300.301(c)(1), an initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. The IDEA 60-day timeline applies only to the initial evaluation. Public agencies are not required to make the eligibility determination, obtain parental consent for the initial provision of special education and related services, conduct the initial meeting of the IEP Team to develop the child's IEP, or initially provide special education and related services to a child with a disability during the IDEA 60-day initial evaluation timeline.

Question B-2: Must the assessments and other evaluation measures used to determine eligibility for special education and related services include a doctor's medical diagnosis, particularly for children suspected of having autism or attention deficit disorder/attention deficit hyperactivity disorder?

Answer: There is no explicit requirement in the IDEA or the Part B regulations to include a medical diagnosis as part of the eligibility determination for any of the disability categories. The purpose of the evaluation conducted in accordance with 34 CFR §§300.304 through 300.311 is to determine whether the child qualifies as a child with a disability and the nature and extent of the educational needs of the child.

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Under 34 CFR §300.304(b)(1), in conducting the evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child that may assist in determining whether the child is a child with a disability and the educational needs of the child. That information could include information from a physician, if determined appropriate, to assess the effect of the child's medical condition on the child's eligibility and educational needs. However, under 34 CFR §300.304(b)(2), no single measure or assessment may be used as the sole criterion for determining whether the child is a child with a disability and for determining an appropriate educational program for the child.

Under 34 CFR §300.306(c)(1)(i), in interpreting evaluation data for the purpose of determining whether the child is a child with a disability under Part B of the IDEA and the educational needs of the child, the group of qualified professionals and the parent must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. Under 34 CFR §300.306(c)(1)(ii), the public agency must ensure that information obtained from all of these sources is documented and carefully considered. There is nothing in the IDEA or the Part B regulations that would prevent a public agency from obtaining a medical diagnosis prior to determining whether the child has a particular disability and the educational needs of the child. Also, there is nothing in the IDEA or the Part B regulations that

would prohibit a State from requiring that a medical diagnosis be obtained for purposes of determining whether a child has a particular disability, such as attention deficit disorder/attention deficit hyperactivity disorder or autism, provided the medical diagnosis is obtained at public expense and at no cost to the parents and is not used as the sole criterion for determining an appropriate educational program for the child. Further, if a State requires a medical diagnosis consistent with the above criteria, such a requirement exceeds the requirements of Part B of the IDEA. Under 34 CFR §300.199(a)(2), the State would be required to identify in writing to the LEAs located in the State, and to the Secretary, that such rule, regulation, or policy is a State-imposed requirement that is not required by Part B of the IDEA and Federal regulations.

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C. IEP Team Membership and IEP Meetings

Authority: The requirements for participants at IEP Team meetings are found in 34 CFR §300.321.

Question C-1: May the representative of the public agency be excused from attending an IEP Team meeting?

Answer: Yes. The members who can be excused from attending an IEP Team meeting in whole or in part, subject to the conditions described in 34 CFR §300.321(e)(1) and (e)(2), include a public agency representative described in 34 CFR §300.321(a)(4). Under 34 CFR §300.321(e)(1), a public agency representative is not required to attend an IEP Team meeting in whole or in part, if the parent of the child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. When the meeting does involve a modification to, or discussion of, the member's area of the curriculum or related services, 34 CFR §300.321(e)(2) provides that a representative of the public agency may be excused from attending an IEP Team meeting, in whole or in part, if (i) the parent, in writing, and the public agency consent to the excusal; and (ii) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Allowing the IEP Team members described in 34 CFR §300.321(a)(2) through (a)(5) to be excused from attending an IEP Team meeting is intended to provide additional flexibility to parents in scheduling IEP Team meetings and to avoid delays in holding an IEP Team meeting when an IEP Team member cannot attend due to a scheduling conflict. 71 FR 46673. However, because the public agency remains responsible for conducting IEP Team meetings that are consistent with the IEP requirements of the IDEA and its implementing regulations, it may not be reasonable for the public agency to agree or consent to the excusal of the public agency representative. For example, the public agency cannot consent to the excusal of the public agency representative from an IEP Team meeting if that individual is needed to ensure that decisions can be made at the meeting about commitment of agency resources that are necessary to implement the IEP being developed, reviewed, or revised. If a public agency representative is excused from attending an IEP Team meeting, consistent with 34 CFR 300.321(e), the public agency remains responsible for implementing the child's IEP and may not use the excusal as a reason for delaying the implementation of the child's IEP.

Question C-2: May more than one member of an IEP Team be excused from attending the same IEP Team meeting?

Answer: Yes. There is nothing in the IDEA or its implementing regulations that would limit the number of IEP Team members who may be excused from attending an IEP Team meeting, so long as the public agency meets the requirements of 34 CFR

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§300.321(e) that govern when IEP Team members can be excused from attending IEP Team meetings in whole or in part. 71 FR 46675. The excusal provisions in 34

CFR §300.321(e) apply to the following IEP Team members described in 34 CFR §300.321(a)(2) through (5):

- The regular education teacher(s) of the child (if the child is, or may be, participating in the regular education environment).
- The special education teacher(s) of the child, or where appropriate, the special education provider(s) of the child.
- A representative of the public agency who is 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 education curriculum; and is knowledgeable about the availability of resources of the public agency.
- An individual who can interpret the instructional implications of evaluation results, who may be another member of the IEP Team.

Question C-3: Must the public agency receive consent from a parent to excuse multiple regular education teachers if at least one regular education teacher will attend an IEP Team meeting?

Answer: No. As provided in 34 CFR §300.321(a)(2), the public agency must ensure that the IEP Team includes “[n]ot less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) . . .” Neither the IDEA nor its implementing regulations require that an IEP Team include more than one regular education teacher. Therefore, if an IEP Team includes more than one regular education teacher of the child, the excusal provisions of 34 CFR §300.321(e)(2) would not apply if at least one regular education teacher will be in attendance at the IEP Team meeting.

Question C-4: If the designated regular education teacher is excused from attending the IEP Team meeting, would an alternate regular education teacher be required to attend?

Answer: No. If the public agency designates a particular regular education teacher as the person who will participate in the IEP Team meeting pursuant to 34 CFR §300.321(a)(2), and that individual is excused from attending the meeting, consistent with the requirements in 34 CFR §300.321(e)(1) and (e)(2), the public agency would not be required to include a different regular education teacher in the IEP Team meeting.

Question C-5: Is there a specific timeline in the IDEA for public agencies to notify parents of a request to excuse an IEP Team member from attending an IEP Team meeting? May a State establish a timeline for this purpose?

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Answer: Neither the IDEA nor its implementing regulations specify a time period in which a public agency must notify parents of a request for an excusal. In public comments on the proposed Part B regulations, the Department was asked to specify a timeline, through regulations, in which a public agency must notify parents of requests for excusing IEP Team members from attending IEP Team meetings. In declining the commenter's request to regulate, the Department noted that Part B of the IDEA does not specify how far in advance of an IEP Team meeting a public agency must notify a parent of the public agency's request to excuse an IEP Team member from attending the IEP Team meeting. Further, Part B of the IDEA does not specify, when the parent and public agency must sign a written agreement that the IEP Team member's attendance is not necessary, consistent with 34 CFR §300.321(e)(1), or when the parent and agency must provide written consent regarding

the IEP Team member's excusal consistent with 34 CFR §300.321(e)(2). 71 FR 46676. The Department also explained that requiring the request for excusal or the written agreement or written consent to occur at a particular time prior to an IEP Team meeting would not account for situations where it would be impossible to meet the timeline (e.g., when an IEP Team member has an emergency). Thus, requiring specific timelines could impede Congressional intent to provide additional flexibility to parents in scheduling IEP Team meetings, as reflected in section 614(d)(1)(C) of the IDEA.

Moreover, we believe that it would be inconsistent with 34 CFR §300.321(e) to permit States to impose timelines for parents and public agencies to agree or consent to the excusal of an IEP Team member. A State may not restrict, or otherwise determine, when an IEP Team member can be excused from attending an IEP Team meeting, or prohibit the excusal of an IEP Team member, provided the conditions in 34 CFR §300.321(e)(1) and (e)(2) are satisfied.

Question C-6: May State law or regulations regarding IEP Team membership and IEP Team meeting attendance requirements exceed those of the IDEA?

Answer: Yes, but with certain caveats. A State may establish laws or regulations for IEP Team membership and IEP Team meeting attendance, but must ensure that in doing so it does not establish provisions that reduce parent rights or are otherwise in conflict with the requirements of Part B of the IDEA and the Federal regulations. Examples of State regulations that could exceed Federal requirements regarding IEP Team membership but would not conflict with the IDEA in this regard would be for a State to require that a regular education teacher attend an IEP Team meeting regardless of whether the child is or may be participating in the regular education environment, that the IEP Team include additional members beyond those required by 34 CFR §300.321(a), or that a parent has the right to bring their child to any or all IEP Team meetings at any age. If a State were to adopt laws or regulations that exceed the requirements of Part B of the IDEA, note that 34 CFR §300.199(a) requires each State that receives funds

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under Part B of the IDEA to do the following: (1) ensure that any State rules, regulations, and policies conform to the purposes of 34 CFR Part 300; (2) identify in writing to LEAs located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by Part B of the IDEA and Federal regulations; and (3) minimize the number of rules, regulations, and policies to which the LEAs and schools located in the State are subject under Part B of the IDEA.

Question C-7: Must an IEP Team document in writing that it considered all of the requirements of 34 CFR §300.324, regarding the development, review, and revision of IEPs?

Answer: States and public agencies are required to maintain records to show compliance with program requirements, pursuant to 34 CFR §76.731 of the Education Department General Administrative Regulations (EDGAR). Neither the IDEA nor its implementing regulations specify what documentation must be maintained to demonstrate this compliance with the requirements of 34 CFR §300.324.

The program requirements are found in the IDEA and its implementing regulations. Therefore, IEP Teams must document consideration of the requirements of 34 CFR §300.324 with sufficient detail to show compliance with this regulation in the development, review, and revision of IEPs.

Question C-8: How must a public agency document that IEP Team members have been informed of changes to the IEP?

Answer: The regulations in 34 CFR §300.324(a)(4)(i) provide that, in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. The regulations require, in 34 CFR §300.324(a)(4)(ii), that if changes are made to the child's IEP in accordance with 34 CFR §300.324(a)(4)(i), the public agency must ensure that the child's IEP Team is informed of those changes. While neither the IDEA nor its implementing regulations specify the manner in which public agencies must document that they have ensured that the child's IEP Team is informed of changes, they must maintain records to show compliance with this program requirement, in accordance with 34 CFR §76.731 of EDGAR.

Question C-9: Who must participate in making changes to the IEP when an IEP is amended without convening an IEP Team meeting pursuant to 34 CFR §300.324(a)(4)(i)?

Answer: The regulations provide, in 34 CFR §300.324(a)(4)(i), that in making changes to a

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child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the child's current IEP. The IDEA and its regulations are silent as to which individuals must participate in making changes to the IEP where there is agreement between the parent and the public agency not to convene an IEP Team meeting for the purpose of making the changes.

Question C-10: Must a public agency provide a parent with prior written notice if an IEP is amended without convening a meeting of the IEP Team?

Answer: Yes. The regulations in 34 CFR §300.503(a) require that written notice that meets the requirements of 34 CFR §300.503(b) must be given to the parents of a child with a disability a reasonable time before the public agency (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. This provision applies, even if the IEP is revised without convening an IEP Team meeting, pursuant to 34 CFR §300.324(a)(4).

D. Consent Provisions

Authority: The requirement for consent to invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services to the child's IEP Team meeting is found in 34 CFR §300.321(b)(3). See also 34 CFR §300.622(b)(2).

The requirements for parental consent for initial evaluations are found in 34 CFR §300.300(a). The requirements for parental consent for the initial provision of special education and related services are found in 34 CFR §300.300(b)(1)-(2). The requirements for parental consent for reevaluations are found in 34 CFR §300.300(c).

Question D-1: Must a public agency obtain parental consent, or the consent of a child with a disability who has reached the age of majority, to invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services to an IEP Team meeting conducted in accordance with 34 CFR §300.321(b)(3)? Do the words "to the extent appropriate" impose a limitation on this requirement?

Answer: The regulations specifically provide that, to the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of §300.321(b)(1), the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services (34 CFR §300.321(b)(3)). See also 34 CFR §300.622(b)(2) (requiring consent of the parent or child who has reached the age of majority for

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disclosure of personally identifiable information to officials of an agency responsible for providing or paying for transition services). Paragraph (b)(1) of 34 CFR §300.321 requires that a child with a disability be invited to an IEP Team meeting if a purpose of a meeting will be the consideration of postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under 34 CFR §300.320(b).

This consent requirement was included in the Part B regulations to protect the confidentiality of discussions that occur at IEP Team meetings, which other agency representatives would be able to hear as a result of their attendance at such meetings, only because they may be providing or paying for transition services. 71 FR 46672. Because the discussions at each IEP Team meeting are not the same, and confidential information about the child is always shared, we believe that consent of the parent, or of a child with a disability who has reached the age of majority, must be obtained prior to each IEP Team meeting if a public agency proposes to invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. The words “to the extent appropriate” were included in §300.321(b)(3) to allow the public agency to determine that such a representative is not needed at a particular meeting. This phrase does not represent a limitation on the responsibility of the public agency to obtain the consent of the parents or the child with a disability who has reached the age of majority to invite such a representative.

Question D-2: Must a public agency pursue the initial evaluation of a child using the procedural safeguards outlined in subpart E of 34 CFR Part 300 in every case where a parent refuses to provide consent for an initial evaluation?

Answer: No. As we explained in our response to question A-5 above, 34 CFR §300.300(a)(3)(i) provides that if a parent of a child enrolled in or seeking to be enrolled in public school does not consent to the initial evaluation or fails to respond to the request for consent, the decision whether to use applicable consent override procedures is optional on the part of the public agency. These consent override procedures refer to the procedural safeguards in subpart E of the Part B regulations (including the mediation procedures under 34 CFR §300.506 or the due process procedures in 34 CFR §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent. Under 34 CFR §300.300(a)(3)(ii), the public agency does not violate its obligation under §§300.111 and 300.301 through 300.311 (to identify, locate, and evaluate a child suspected of having a disability and needing special education and related services) if it declines to pursue the evaluation.

Question D-3: What may a public agency do if a parent does not respond to the public agency's request for the parent to provide consent to a reevaluation?

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Answer: Under 34 CFR §300.300(c)(2), the public agency need not obtain informed parental consent for the reevaluation if the public agency can demonstrate that it made reasonable efforts to obtain consent for the reevaluation, and the child's parent has failed to respond to the request for consent. This means that a public agency may conduct a reevaluation of a child with a disability without using the consent override procedures if the public agency can demonstrate that it made reasonable efforts to obtain parental consent for the reevaluation, and the child's parent has failed to respond to the request for consent. Section 300.300(d)(5) of the regulations provides that in order to meet the reasonable efforts requirement, the public agency must document its attempts to obtain parental consent using the procedures in 34 CFR §300.322(d). These procedures include detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits.

Question D-4: The regulations provide, in 34 CFR §300.303(b)(2), that a reevaluation must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary. What options are available to a public agency if a parent believes that the public agency should continue to provide special education and related services to their child but refuses to consent to a three-year reevaluation under 34 CFR §300.303(b)(2)?

Answer: If a parent refuses to consent to a three-year reevaluation under 34 CFR §300.303(b)(2), but requests that the public agency continue the provision of special education and related services to their child, the public agency has the following options:

1. The public agency and the parent may, as provided in 34 CFR §300.303(b)(2), agree that the reevaluation is unnecessary. If such an agreement is reached, the three-year reevaluation need not be conducted. However, the public agency must continue to provide FAPE to the child.
2. If the public agency believes that the reevaluation is necessary, and the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the Act's consent override procedures described in 34 CFR §300.300(a)(3), so long as overriding a parental refusal to consent to a reevaluation is permissible under State law. These consent override procedures are the procedural safeguards in subpart E of 34 CFR Part 300, including the mediation procedures under 34 CFR §300.506 or the due process procedures under 34 CFR §§300.507 through 300.516.
3. If the public agency chooses not to pursue the reevaluation by using the consent override procedures described in 34 CFR §300.300(a)(3), and the public agency believes, based on a review of existing evaluation data on the child, that the child does not continue to have a disability or does not continue to need

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special education and related services, the public agency may determine that it will not continue the provision of special education and related services to the child. If the public agency determines that it will not continue the provision of special education and related services to the child, the public agency must provide the parent with prior written notice of its proposal to discontinue the provision of FAPE to the child consistent with 34 CFR §300.503(a)(2), including the right of the parent to use the mediation procedures in 34 CFR §300.506 or the due process procedures in 34 CFR §§300.507 through 300.516 if the parent disagrees with the public agency's decision to discontinue the provision of FAPE to the child.

Question D-5: Does the requirement that a public agency obtain parental consent for the initial provision of special education and related services mean that parents must consent to each service included in the initial IEP developed for their child?

Answer: No. Under 34 CFR §300.300(b)(1), a public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services. However, this consent requirement only applies to the initial provision of special education and related services generally, and not to the particular special education and related services to be included in the child's initial IEP. In order to give informed consent to the initial provision of special education and related services under 34 CFR §300.300(b)(1), parents must be fully informed of what

special education and related services are and the types of services their child might need, but not the exact program of services that would be included in an IEP to be developed for their child. Once the public agency has obtained parental consent and before the initial provision of special education and related services, the IEP Team would convene a meeting to develop an IEP for the child in accordance with 34 CFR §§300.320 through 300.324. Decisions about the program of special education and related services to be provided to the child are left to the child's IEP Team, which must include the child's parents, a public agency representative, and other individuals, consistent with 34 CFR §300.321. While the IDEA does not require public agencies to obtain parental consent for particular services in a child's IEP, under the regulations in 34 CFR §300.300(d)(2), States are free to create additional parental consent rights, such as requiring parental consent for particular services. In cases where a State creates additional parental consent rights, the State must ensure that each public agency in the State has effective procedures to ensure that the parent's exercise of these rights does not result in a failure to provide FAPE to the child.

Question D-6: What recourse is available to parents who consent to the initial provision of special education and related services but who disagree with a particular service or services in their child's IEP?

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Answer: In situations where a parent agrees with the majority of services in his/her child's IEP, but disagrees with the provision of a particular service or services, such as physical therapy or occupational therapy, the public agency should work with the parent informally to achieve agreement. While the parent and public agency are attempting to resolve their differences, the agency should provide the service or services that are not in dispute.

In situations where a parent disagrees with the provision of a particular special education or related service, and the parent and public agency later agree that the child would be provided with FAPE if the child did not receive that service, the public agency could decide not to provide the service with which the parent disagrees. If, however, the parent and the public agency disagree about whether the child would be provided with FAPE if the child did not receive a particular special education or related service with which the parent disagrees, and the parent and public agency cannot resolve their differences informally, the parent may use the procedures in subpart E of the IDEA regulations to pursue the issue of whether the service with which the parent disagrees is not appropriate for their child. This includes the mediation procedures in 34 CFR §300.506 or the due process procedures in 34 CFR §§300.507 through 300.516.

Question D-7: May a foster parent provide consent for an initial evaluation even if the biological parent refuses to provide such consent?

Answer: If the biological parent of the child refuses consent for an initial evaluation of the child, and the parental rights of the biological parent have not been terminated in accordance with State law, or a court has not designated a foster parent to make educational decisions for the child in accordance with State law, a foster parent may not provide consent for an initial evaluation. See 34 CFR §300.30(b)(1).

E. Related Services

Authority: The requirements for related services are found in 34 CFR §300.34.

Question E-1: Can artistic and cultural services, such as music therapy, be considered related services under the IDEA? If so, are there qualifications in the IDEA for personnel to provide such services as related services?

Answer: Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. Related services can include artistic and cultural services that are therapeutic in nature, regardless of whether the IDEA or the Part B regulations identify the particular therapeutic service as a related service. The Department's long-standing interpretation is that the list of related services in the IDEA and the Part B regulations is not exhaustive and may include other

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developmental, corrective, or supportive services (such as artistic and cultural programs, art, music, and dance therapy), if they are required to assist a child with a disability to benefit from special education in order for the child to receive FAPE. As is true regarding consideration of any related service for a child with a disability under Part B of the IDEA, the members of the child's IEP Team (which include the parents, school officials, and whenever appropriate, the child with a disability) must make individual determinations in light of each child's unique abilities and needs about whether an artistic or cultural service such as music therapy is required to assist the child to benefit from special education.

If a child's IEP Team determines that an artistic or cultural service such as music therapy is an appropriate related service for the child with a disability, that related service must be included in the child's IEP under the statement of special education, related services, and supplementary aids and services to be provided to the child or on behalf of the child. 34 CFR §300.320(a)(4). These services are to enable the child to advance appropriately toward attaining the annual goals, to be involved and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with and without disabilities in those activities. 34 CFR §300.320(a)(4)(i)-(iii). If the child's IEP specifies that an artistic or cultural service such as music therapy is a related service for the child, that related service must be provided at public expense and at no cost to the parents. 34 CFR §§300.101 and 300.17.

Regarding the question about personnel qualifications for providers when an artistic or cultural service such as music therapy is considered a related service, Part B of IDEA does not prescribe particular qualifications or credentials for personnel providing special education and related services. Under 34 CFR §300.156(a), each SEA must establish and maintain qualifications to ensure that personnel necessary

to carry out the purposes of Part B of the IDEA are appropriately and adequately prepared and trained. This responsibility includes ensuring that the qualifications for related services personnel and paraprofessionals are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services. 34 CFR §300.156(b)(1). In addition, the SEA must ensure that related services personnel

who deliver services in their discipline or profession meet applicable State qualification standards and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis. 34 CFR §300.156(b)(2)(ii). Therefore, if a child's IEP includes an artistic or cultural service such as music therapy as a related service, the SEA would be responsible for ensuring that the child received that service from appropriately and adequately trained personnel, consistent with 34 CFR §300.156(b).

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Question E-2: Is a public agency responsible for paying for mental health services if the IEP Team determines that a child with a disability requires these services to receive FAPE and includes these services in the child's IEP?

Answer: The IEP Team for each child with a disability is responsible for identifying the related services that the child needs in order to benefit from special education and receive FAPE. These services must be included in the child's IEP in the statement of special education, related services, and supplementary aids and services, to be provided to, or on behalf of, the child to enable the child to: advance appropriately toward attaining the annual goals, be involved and make progress in the general education curriculum, participate in extracurricular and other nonacademic activities, and be educated and participate with other children with and without disabilities in those activities. 34 CFR §300.320(a)(4)(i)-(iii). Mental health services provided as a related service must be provided at no cost to the parents. 34 CFR §§300.101 and 300.17.

An IEP Team may consider whether mental health services are provided as counseling services (34 CFR §300.34(c)(2)) or social work services in schools (34 CFR §300.34(c)(14)). Under 34 CFR §300.34(c)(2), counseling services are defined as including services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel. Under 34 CFR §300.34(c)(14)(ii), social work services in schools includes group or individual counseling for the child and family. However, under 34 CFR §300.34(c)(5), the public agency would not be responsible for paying for mental health services that constitute medical treatment for a child by a licensed physician except to the extent that the services are for diagnostic and evaluation purposes only.

F. Secondary Transition

Authority: The requirements for the content of the IEP related to transition services are found in 34 CFR §300.320(b).

Question F-1: Must an IEP include measurable postsecondary goals relating to training, education, and employment based on age-appropriate transition assessments for every student with a disability who is at least 16 years old, regardless of the student's skill levels? When is a separate goal also required for independent living skills?

Answer: Under 34 CFR §300.320(b), the IEP for each child with a disability, must, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. The Department explained in the Analysis of Comments and Changes section of the preamble of the August 2006 final Part B regulations that "...the Act requires a child's IEP to include measurable postsecondary goals in the areas of training, education, and employment, and, where appropriate, independent living skills.

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Therefore, the only area in which postsecondary goals are not required in the IEP is in the area of independent living skills.... It is up to the child's IEP Team to determine whether IEP goals related to the development of independent living skills are appropriate and necessary for the child to receive FAPE." [Emphasis added] 71 Fed. Reg. 46668 (Aug. 14, 2006). The requirements for postsecondary IEP goals apply, whether or not the student's skill levels related to training, education, and employment are age appropriate. In all cases, the IEP Team must develop the specific postsecondary goals for the student, in light of the unique needs of the student as determined by age-appropriate transition assessments of the student's skills in these areas.

Regarding postsecondary goals related to training and education, the IDEA and its implementing regulations do not define the terms "training" and "education." However, the areas of training and education can reasonably be interpreted as overlapping in certain instances. In determining whether postsecondary goals in the areas of training and education overlap, the IEP Team must consider the unique needs of each individual student with a disability in light of his or her plans after leaving high school. If the IEP Team determines that separate postsecondary goals in the areas of training and education would not result in the need for distinct skills for the student after leaving high school, the IEP Team can combine the training and education goals of the student into one or more postsecondary goals addressing those areas. For example, for a student whose postsecondary goal is teacher certification, any program providing teacher certification would include education as well as training. Similarly, a student with a disability who enrolls in a postsecondary program in engineering would be obtaining both education and occupational training in the program. The same is true for students with disabilities enrolled in programs for doctors, lawyers, accountants, technologists, physical therapists, medical technicians, mechanics, computer programmers, etc. Thus, in some instances, it would be permissible for the IEP to include a combined postsecondary goal or goals in the areas of training and education to address a student's postsecondary plans, if determined appropriate by the IEP Team. This guidance,

however, is not intended to prohibit the IEP Team from developing separate postsecondary goals in the areas related to training and education in a student's IEP, if deemed appropriate by the IEP Team, in light of the student's postsecondary plans.

On the other hand, because employment is a distinct activity from the areas related to training and education, each student's IEP must include a separate postsecondary goal in the area of employment.

Question F-2: May community access skills be included in the IEP as independent living skills?

Answer: The IEP Team must determine whether it is necessary to include appropriate measurable postsecondary goals related to independent living skills in the IEP for a

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particular child, and, if so, what transition services are needed to assist the child in reaching those goals. Under 34 CFR §300.43, the term "transition services" is defined as "a coordinated set of activities for a child with a disability...to facilitate movement from school to post-school activities," and include among other activities, "independent living, or community participation." Based on the assessment of the student's independent living skills, the IEP Team would need to determine whether transition services provided as community access skills are necessary for the child to receive FAPE. If so, those skills must be reflected in the transition services in the child's IEP.

Question F-3: If an IEP Team chooses to address transition before age 16 (for example, at age 14), do the same requirements apply?

Answer: Yes. The regulations provide, in 34 CFR §300.320(b), that beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. If the IEP Team for a particular child with a disability determines that it is appropriate to address the requirements of 34 CFR §300.320(b) for a child who is younger than age 16, then the IEP for that child must meet the requirements of 34 CFR §300.320(b). This regulation requires including appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, and employment, and, where appropriate, independent living skills. As discussed in the answer to question F-1 above, a student's IEP may include a combined postsecondary goal or goals in the areas of training and education, if deemed appropriate by the IEP Team, in light of the student's postsecondary plans.

Question F-4: The regulations in 34 CFR §300.320(b)(1) require that appropriate postsecondary transition goals be measurable. Must public agencies measure achievement of the goals once a student has graduated or has aged out?

Answer: There is no requirement for public agencies to determine whether the postsecondary goals have been met once a child is no longer eligible for FAPE under Part B of the IDEA. Under 34 CFR §300.101(a), FAPE must be made available to all children residing in the State in mandatory age ranges. However, the obligation to make FAPE available does not apply to children who have graduated from high school with a regular high school diploma (34 CFR §300.102(a)(3)(i)) or to children who have exceeded the mandatory age range for provision of FAPE under State law (34 CFR §300.102(a)(1)). When a child's eligibility for FAPE pursuant to Part B of the IDEA terminates under these

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circumstances, in accordance with 34 CFR §300.305(e)(3), the LEA must provide a summary of the child's academic achievement and functional performance, including recommendations on how to assist the child in meeting the child's postsecondary goals. However, nothing in the IDEA requires the LEA to measure the child's progress on these postsecondary transition goals, or provide any special education services to the child after the child has graduated from a regular high school or exceeded the mandatory age range for FAPE.

Chapter 5

SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

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Introduction

West End SELPA Guideline Statement on Least Restrictive Environment

It is the philosophy of the West End SELPA that all individuals with exceptional needs shall be provided a free and appropriate public education (FAPE) in the least restrictive environment (LRE). This philosophy is in accordance with state and federal mandates.

If related service or services will not be provided by an LEA employee, the LEA may contract with a certified nonpublic, nonsectarian school or agency in accordance with the requirements of a master contract and individual services agreement. For mental health services or medically necessary occupational and physical therapy, employees, vendors or contractors of the State Department of Health Services or Mental Health, or any designated local public health or mental health agency may provide related services in accordance with procedures outlined in the local interagency agreements.

All special education and related services determined by the Individualized Education Program (IEP) team to be necessary for a student to benefit from education shall be listed on the IEP. A local education agency shall assure that each student with a disability is provided services in accordance with his/her IEP, regardless of whether the LEA or an agency or contractor provides the service.

When another agency providing a related service fails to provide the service listed on the IEP, the local education agency is responsible and shall provide the service in accordance with an IEP unless otherwise provided by law, without a disruption in service, and at no cost to the parent.

Special education programs, appropriate to student needs, are housed on general education campuses, as well as leased sites, and dispersed throughout the SELPA as equitably as possible to ensure that individuals with disabilities are served as close to home as possible and on a regional basis. Each local education agency shall make every effort to ensure that the physical location of the special education program is selected to facilitate continuing social interaction with nondisabled students. Each local education agency shall ensure that individuals with disabilities shall have equal access to general education activities, programs, and facilities on the general education site and participate in those activities as appropriate to their needs. The West End SELPA IEP form contains a statement of supplementary aids and services that the child with a disability may need to ensure his/her participation in the general education curriculum. Each local education agency shall encourage the close cooperation of all school personnel to facilitate opportunities for social as well as academic interaction between individuals with disabilities and nondisabled individuals. Each local education agency shall ensure that all students with disabilities are educated and participate with nondisabled students in academic, nonacademic, and extracurricular activities. The IEP shall contain a statement of the program modifications or supports for school personnel that will be provided for the child with disabilities to be educated and participate in activities with nondisabled children.

The LEA ensures that removal of students with disabilities from the general education environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily. The IEP shall include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the general education class and in extracurricular and other nonacademic activities.

Each local education agency shall provide school personnel the necessary support to ensure student success. The SELPA's funding allocation plan shall consider the distribution of resources to ensure that each local education agency can provide the necessary supports.

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Each local education agency shall ensure that a pupil will be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized. Such resources may include, but not be limited to, Student Study Teams, early literacy programs and remedial programs.

The West End SELPA coordinates the distribution of low incidence equipment. Specialized equipment and services are provided to each eligible student with disabilities at his/her school, thereby reducing the need to serve pupils in isolated sites. The SELPA shall distribute annually the procedures for accessing specialized equipment and services.

Section A - Least Restrictive Environment - A Continuum of Services and Placement Options

EC 56360 Each special education local plan area shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services, as required by the Individuals with Disabilities Education Act and federal regulations relating thereto.

EC 56361 The continuum of program options shall include, but not necessarily be limited to, all of the following or any combination of the following:

- (a) Regular education,*
- (b) A resource specialist program,*
- (c) Designated instruction and services,*
- (d) Special classes and centers,*
- (e) Nonpublic, nonsectarian school services,*
- (f) State special schools,*
- (g) Instruction in settings other than classrooms where specially designed instruction may occur,*
- (h) Itinerant instruction in classrooms, resource room, and settings other than classrooms where specially designed instruction may occur to the extent required by federal law or regulation,*
- (i) Instruction using telecommunication and instruction in the home, in hospitals, and in other institutions to the extent required by federal law or regulation.*

A full continuum of program options is available for educational placement of students with exceptional needs. Program options provide a spectrum of educational offerings, which range from general education classroom alternatives to the special site structured to deliver intense and specialized services. The Individualized Education Program team remains the primary decision-making body in determining the individual needs of students and the appropriate placement for them. Every effort is made to ensure that special education students have access to state determined frameworks and standards, and participation in academic and extra-curricular activities.

The student's instructional program is based on the core curriculum, standards, and frameworks identified by specific goals and objectives outlined in the IEP. The instructional settings and coordination of instructions vary depending upon the concepts and skills deemed appropriate for individual needs. Settings for instruction may include general education classrooms, general education classrooms with support services, special education classrooms, or community non-public schools or agencies as well as all other options outlined within the Service Delivery Options section of the West End SELPA Local Plan.

Students with low incidence disabilities receive services consistent with the state guidelines and student needs. Students are referred for special education consideration after general education modifications are

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deemed to be not appropriate. Students are identified and provided special education services in accordance with appropriate, legal assessment standards. The SELPA staff and district administrators review programs on a regular basis to determine whether or not a disproportionate representation of any one ethnicity exists.

A student's placement within these educational offerings is supported with staff development activities including disability awareness in-services, classroom visitations, and appropriately developed curricular programs. SELPA and district support encourages successful student transition toward the least restrictive environment (LRE).

The LRE issue is regularly reviewed by the West End SELPA Program Advisory Committee (PAC). It is PAC's objective and intention to follow the direction established by the State Department of Education, Special Education Division's LRE policy. All students shall be educated to the maximum extent possible with their non-disabled peers, unless there are demonstrated and compelling reasons why a student must be provided education in a special class or center.

In summary, students are placed in settings based on the needs set forth in their IEP and not solely on the disabling condition, configuration of services, availability of staff, or administrative expediency.

Section B - Related Services

EC 56363(a) As used in this part, the term "designated instruction "and services" means "related service" as that term is defined" in Section 1401(26) of Title 20 of the United States Code and Section 300.34 of Title 34 of the Code of Federal Regulations. The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(b) These services may include, but are not limited to, the following:

1. Language and speech development and remediation

The speech and language development and remediation services may be provided by a speech-language pathology assistant as defined in subdivision (f) of Section 2530.2 of the Business and Professions Code.

CCR 3065 (j) (1) *Language and speech remediation means screening, assessment, individualized education program development and direct speech and language services delivered to children with disabilities who demonstrate difficulty understanding or using spoken language to such an extent that it adversely affects their educational performance and cannot be corrected without special education and related services.*

2. Audiological services

CCR 3065 (c) (1) *Audiological services means aural rehabilitation (auditory training, speech training, speech reading, language habilitation, and speech conservation) and habilitation with individual pupils in the general classroom; monitoring hearing levels, auditory behavior, and amplification for all pupils requiring personal or group amplification in the instructional setting; planning, organizing, and*

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implementing an audiology program for individuals with auditory dysfunctions, as specified in the individualized education program; or consultative services regarding test finding, amplification needs and equipment, otological referrals, home training programs, acoustic treatment of rooms, and coordination of educational services to hearing-impaired individuals.

3. Orientation and mobility services

CCR 3065 (1)(1) *"Orientation and mobility instruction" means specialized instruction for individuals in orientation and mobility techniques or consultative services to other educators or parents regarding instruction planning and implementation of the individualized education program relative to the development of orientation and mobility skills and independent living skills.*

4. Instruction in the home or hospital

CCR3065 (i) (1) *"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. Adapted physical education

CCR 3065 (a) (1) *"Adapted physical education" means:*

- a) *a modified general physical education program, or a socially designed physical education program in a special class; or*
- b) *Consultative services provided to pupils, parents, teachers, or other school personnel for*
- c) *the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the general physical education program or specially designed physical education program.*

6. Physical and occupational therapy

CCR 3065 (n) (1) *"Physical therapy" means the:*

- a) *administration of active, passive, and restrictive therapeutic exercises and local or general massage, muscle training and corrective exercises and coordination work;*
- b) *administration of hydrotherapy treatments;*
- c) *assistance in administering various types of electrotherapy including ultraviolet, infrared, diathermy and inductothermy;*
- d) *teaching parents of hospitalized pupils exercises which are to be continued at home and interpret to them the significance of physical therapy services; and*
- e) *instruction in walking, standing, balance, use of crutches, cane, or walker, and in the care of braces and artificial limbs.*

CCR 3065 (k) (1) *"Occupational Therapy" means the use of various treatment modalities including self-help, skills, language and educational techniques as well as sensory motor integrations, physical restoration methods, and pre-vocation exploration to facilitate physical and psychosocial growth and development.*

7. Vision services

CCR 3065 (v) (1) *"Vision services" means:*

- a) *adaptations in curriculum, media, and the environment, as well as instruction in special skills, or*
- b) *consultative services to pupils, parents, teachers, and other school personnel.*

8. Specialized driver training instruction

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CCR 3065 (r) (1) *“Specialized driver training instruction” means instruction to children with disabilities to supplement the general driver-training program.*

9. Counseling and guidance

CCR 3065 (f) (1) *“Counseling and guidance” means educational counseling in which the pupil is assisted in planning and implementing his or her immediate and long-range educational program; career counseling in which the pupil is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions; personal counseling in which the pupil is helped to develop his or her ability to function with social and personal responsibility; or counseling with parents and staff members on learning problems and guidance programs for pupils.*

10. Psychological services other than assessment and development of the individualized education program.

CCR 3065 (o) (1) *“Psychologist services” means:*

- a) *psychological counseling provided to children with disabilities;*
- b) *consultative services to parents, pupils, teachers, and other school personnel; or*
- c) *planning and implementing a program of psychological counseling for children with disabilities and parent by a credentialed or licensed psychologist or other qualified personnel*
- d) *This term does not include assessment services and the development of an individualized education program.*

11. Parent counseling and training.

CCR 3065 (m) (1) *“Parent counseling and training” means assisting parents in understanding the special needs of their child and providing parents with information about child development.*

12. Health and nursing services, including school nurse services designed to enable an individual with exceptional needs to receive a free and appropriate public education as described in the individualized education program.

CCR 3065 (h) (1) *“Health and nursing service” means:*

- a) *managing the child’s health problems on the school site;*
- b) *consulting with pupils, parents, teachers, and other personnel;*
- c) *group and individual counseling with parents and pupils regarding health problems;*
- d) *maintaining communication with health agencies providing care to individuals with disabilities; or*
- e) *providing services by qualified personnel.*

13. Social worker services

CCR 3065 (q) (1) *“Social worker services” means:*

- a) *individual and group counseling with the individual and his or her immediate family;*
- b) *consultation with pupils, parents, teachers, and other personnel regarding the effects of family and other social factors on the learning and developmental requirements of children with disabilities; or*
- c) *developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the pupil, the family, and the various agencies providing social income maintenance, employment development, mental health, or other developmental services.*

14. Specially designed Vocational education and career development:

CCR 3065 (s) (1) *“Specially designed vocational and career development” means:*

- a) *providing prevocational programs and assessing work-related skills, interests, aptitudes, and attitudes;*
- b) *coordinating and modifying the general vocational education program;*

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- c) *assisting pupils in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or shelter environment, and to enable such individuals to become participating members of the community;*
- d) *establishing work training programs within the school and community;*
- e) *assisting in job placement;*
- f) *instructing job trainers and employers as to the unique needs of the individuals;*
- g) *maintaining regularly scheduled contract with all work stations and job-site trainers; or*
- h) *coordinating services with the Department of Rehabilitation, the Employment Development Department and other agencies as designated in the individualized education program.*

15. Recreation services

CCR 3065 (p) (1) *“Recreation services” means:*

- a) *therapeutic recreation and specialized instructional programs designed to assist pupils to become as independent as possible in leisure activities, and when possible and appropriate facilitate the pupil’s integration into general recreation programs;*
- b) *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; or*
- c) *leisure education programs which are those specific programs designed to prepare the pupil for optimum independent participation in appropriate leisure activities, and developing awareness of personal and community leisure resources.*

16. Specialized services for Low-incidence disabilities, such as readers, transcribers, and vision and hearing services

CCR 3065 (u) (1) *“Specialized services for low-incidence disabilities” means:*

- a) *specially designed instruction related to the unique needs of pupils with low-incidence disabilities; or*
- b) *specialized services related to the unique needs of individual with low incidence disabilities.*

17. Interpreting services

(c) The terms “designated instruction and services” and “related services” do not include a medical device that is surgically implanted, including cochlear implants, the optimization of the functioning of a medical device, maintenance of that device, or the replacement of that device, pursuant to Section 300.34(b) of Title 34 of the Code of Federal Regulations. In accordance with Section 300.34(b) of Title 34 of the Code of Federal Regulations, nothing in this subdivision shall do any of the following:

(1) Limit the right of an individual with exceptional needs with a surgically implanted device, including a cochlear implant, to receive related services or designated instruction and services that are determined by the individualized education program team to be necessary for the individual to receive a free appropriate public education.

(2) Limit the responsibility of a local educational agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the individual, including breathing, nutrition, or operation of other bodily functions, while the individual is transported to and from school or is at school.

(3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required by Section 300.113(b) of Title 34 of the Code of Federal Regulations.

All services currently listed in EC 56363 (b) are available to students with exceptional needs within the West End SELPA based upon what the student needs to benefit from their instructional program. Services are

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

offered to appropriately identified students. Care is continually taken in order to ensure a uniformity of meaningful and appropriate services. Caseload assignments to various related services staff members are periodically reviewed to ensure compliance with state regulations and adherence to program guidelines.

There are basic tasks performed by related services personnel. First, to assist with identification of students with special needs. Second, to conduct therapeutic and remedial work that attempts to offset or to mitigate the effects of the student's disability. The emphasis is to extend education services provided by the regular classroom teacher, the resource specialist, or the special day class teacher. These specialized educational services promote student success with the standards and frameworks through appropriate application of the core curriculum or the alternate curriculum.

The individual education program substantiates the need for specific related services and identifies the goals and objectives to be reached. Related services may be provided through public agencies, such as California Children's Services, or the Department of Behavioral Health when appropriate. When needed services are not available within the SELPA, they are contracted through state certified non-public agencies. This is accomplished through the referral of the case to the West End SELPA Program Manager or designee who participates in the IEP team meeting. The SELPA initiates all contracts for private services and in conjunction with the district is responsible for evaluating and monitoring those services to students and parents.

General Provisions for Related Services

1. Related services may be provided to individuals or to small groups in a specialized area of education need, and throughout the full continuum of educational settings.
2. Related services, when needed as determined by the individualized education program team, shall be specified in the individualized education program, frequency and duration of services are specified.
3. All individuals providing related and services through the Local Education Agencies shall be qualified.
4. All entities and individuals contracted to provide related services shall be:
 - Employees of the school district or county office; or
 - Employed under contract pursuant to Education Code sections 56365-56366.7. Such persons shall be certified by the Department pursuant to Sections 3060-3064 of this Title; or
 - Employees, vendors, or contractors of the State Department of Health Services, or Mental Health, or any designated local public or mental health agency.
5. Instruction and services shall be provided by the regular class teacher, the special class teacher, or the resource specialist 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 and services.
6. Related services shall be provided during the school day unless approved by the district director of special education, or designee.

Section C – Assistive Technology

Assistive technology needs must be considered for each individual with a disability. Amendments to the Individuals with Disabilities Act of 1997 (IDEA) require the IEP team to consider whether the child requires assistive technology and services (IDEA; 20 U.S.C. Section 1414 (d) (3) (B) (v))

Assistive Technology and Services is defined in Federal Law as follows:

Assistive Technology Device: The term "assistive technology device" means any item, piece of equipment or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of a child with a disability.

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

Assistive Technology Service: The term “assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition or use of an assistive technology device. Such terms include:

- The evaluation of the needs of such child, including a functional evaluation of the child in the child’s customary environment;
- Purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by such child;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for such child, or when appropriate, the family of such child;
- Training or technical assistance for professionals, including individuals providing education and rehabilitation services to the child or otherwise substantially involved in the major life functions of such child.

Assistive Technology Services are further defined by California Code of Regulations as:
CCR § 3051.19

- (a) “Assistive technology service” means any service that directly assists an individual with exceptional needs in the selection or use of an assistive technology device that is educationally necessary. The term includes the evaluation of the needs of an individual with exceptional needs including a functional evaluation of the individual in the individual’s customary environment; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education programs and rehabilitation plans and programs; training or technical assistance for an individual with exceptional needs or, where appropriate, the family of an individual with exceptional needs or, if appropriate, that individual’s family; and training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with exceptional needs.
- (b) Assistive technology services shall be provided only by personnel who possess a:
 - (1) license in Physical Therapy issued by a licensing agency within the Department of Consumer Affairs, where the utilization of assistive technology services falls within the scope of practice of physical therapy as defined in Business and Professions Code section 2620 and implementing regulations; or
 - (2) license in Occupational Therapy issued by a licensing agency within the Department of Consumer Affairs; or
 - (3) license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs or a valid document, issued by the California CTC, where the function of the assistive technology service is augmentative communication; or
 - (4) baccalaureate degree in engineering with emphasis in assistive technology; or
 - (5) baccalaureate degree in a related field of engineering with a graduate certificate in rehabilitation technology or assistive technology; or
 - (6) certification from the Rehabilitation Engineering and Assistive Technology Society of North America and Assistive Technology Provider (RESNA/ATP); or
 - (7) certificate in assistive technology applications issued by a regionally accredited post-secondary institution; or

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

(8) credential that authorizes special education of physically impaired, orthopedically impaired, or severely impaired pupils.

Types of Assistive Technology and Services that are to be Considered by the IEP Team

It is important that members of the IEP team recognize that technology is just one strategy in a multi-faceted approach in addressing the needs and strengths of students with disabilities. IEP teams will therefore need to balance the degree of technology assistance with the student's learning potential, motivation, chronological developmental level and goals/objectives, which include, but are not limited to:

1. **Low-Tech:** Equipment and other supports readily available in schools, including off-the-shelf items to accommodate the needs of students, which can be provided by general/special education through the Student Study Team (SST)/IEP processes (e.g., calculators, tape, recorder, pencil grip, and larger pencils).
2. **High-Tech:** Supports students who may need more specialized equipment and support services beyond basic assistive technology, often students with low incidence and/or significant/severe disabilities, which requires more in-depth assessment (e.g., closed circuit television (CCTV), FM systems, augmentative communication devices, sound field systems, alternative computer access, and specialized software).

The Process for Considering Whether the Child Requires Assistive Technology and Services

Assistive technology is as much a process as a product. Assistive technology is a tool for access (e.g., school environment, core curriculum,) and for independence (e.g., communication, mobility) and will therefore change as the needs of the student change and as technology continues to change. The need for assistive technology should therefore be an integral part of a comprehensive assessment for students with disabilities in all areas related to their disabilities, as appropriate, for each student and must be considered by the IEP team, based upon the student's assessed needs and strengths. It is important to use a collaborative school-based team approach in education settings for assessment, planning, and provision of needed assistive technology, which includes individuals who are knowledgeable about the student's disability needs and strengths in the area of assistive technology.

The **Wisconsin Assistive Technology Initiative** (WATI) developed a "checklist" of additional examples of assistive technology which may be needed by students.

It is also important to consider and use the technology purchased with state and federal technology funds for all students (e.g., computers, basic software), and to request funding for students with disabilities who do not have access to the technology purchased with these funds.

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

WATI Assistive Technology Assessment Checklist

SEATING, POSITIONING AND MOBILITY

Seating and Positioning

- Standard seat/workstation at correct height and depth
- Modifications to standard seat or desk
- Alternative chairs
- Adapted/alternate chair, sidelyer, stander
- Custom fitted wheelchair or insert

Mobility

- Walking devices - crutches/walker
- Grab bars and rails
- Manual wheelchair
- Powered scooter, toy car or cart
- Powered wheelchair w/joystick or other control
- Adapted vehicle for driving

COMMUNICATION

- Concrete Representation
- Simple speech generating device
- Speech generating device with levels
- Speech generating device with icon sequencing
- Speech generating device with dynamic display
- Text based device with speech synthesis

COMPUTER ACCESS

- Positioning of student
- Standard Keyboard/Mouse with accessibility/access features built into the operating system
- Standard Keyboard/Mouse with Adaptations
- Rate Enhancement
- Alternate Keyboard/Mouse
- Onscreen keyboard
- Voice recognition software
- Eye Gaze
- Morse Code
- Switch Access
- Other: _____

MOTOR ASPECTS OF WRITING

- Environmental and seating adaptations
- Variety of pens/pencils
- Adapted pen/pencil
- Writing templates
- Prewritten words/phrases
- Label maker
- Portable word processor
- Computer with accessibility features
- Computer with word processing software
- Alternative keyboards
- Computer with scanner
- Computer with word prediction
- Computer with voice recognition software

COMPOSITION OF WRITTEN MATERIAL

- Picture Supports to write from/about
- Pictures with words
- Words Cards/Word Banks/Word Wall
- Pocket Dictionary/Thesaurus
- Written templates and Guides
- Portable, talking spellcheckers/dictionary/thesaurus
- Word processing software
- Word prediction software
- Digital templates
- Abbreviation expansion
- Word processing with digital supports
- Talking word processing
- Multimedia software with alternative expression of ideas
- Tools for citations and formats
- Voice recognition software

READING

- Standard Txt
- Book adapted for access
- Low-tech modifications to text
- Handheld device to read individual words
- Use of pictures/symbols with text
- Electronic text
- Modified electronic text
- Text reader
- Scanner with OCR and text reader
- Text reader with study skill support

MATHEMATICS

- Math manipulatives
- Low-tech physical access
- Abacus/mathline
- Adapted math paper
- Adapted math tools
- Math "smart chart". math scripts
- Math tool bars
- On-screen calculator
- Alternative keyboards/portable math processors
- Virtual manipulatives
- Math software and web simulations
- Voice recognition math software

ORGANIZATION

Self-Management

- Sensory regulation tools
- Movement and deep pressure tools
- Fidgets
- Auditory
- Visuals

(Organization continued in next page)

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

ORGANIZATION *(continued)*

Information Management

- Tabs
- Sticky notes, index cards
- Highlighters
- Key words
- Study guide
- Task analysis
- Digital highlighters and sticky notes
- Handheld scanners/electronic extraction
- Electronic organization
- Study grid generators/grading rubric
- Online search tools
- Online web trackers
- Online sorting file tools
- Digital graphic organizers
- Online manipulatives, interactive, tutorials, animations

Time Management

- Checklists
- Paper planners/calendars
- Schedules (visual)
- Portable, adapted timekeepers
- Electronic reminders
- Digital planners (PDA) cell phones
- Web-based planning tools

Material Management

- Low-tech organizers
- Checklists
- Container system
- Coding system
- Electronic filing and storage
- Portable electronic storage
- Computer-based tools

RECREATION AND LEISURE

- Typical toys/puzzles/balls/utensils/instruments adapted; adjustable equipment; flexible rules; add visual/auditory clarity
- Specially designed utensils/equipment
- Electronically/mechanically adapted utensils and equipment
- Electronic aids – remote controls, timers, CD players, speech generating devices
- Computer-facilitated and computer-based activities
- Online and virtual recreational experiences

VISION

Computer access

- Color scheme
- Large operating system features
- Built-in magnification
- Fully-featured magnification
- Magnification with screen reader
- Screen reader
- Screen Reader with Braille device

VISION *(continued)*

Reading

- Glasses
- Color Filter
- Slantboard
- Large print
- Optical Magnifier
- Electronic Magnifier
- CCTV
- Monocular
- CCTV with distance camera
- Audio text
- Computer-based reading software
- Electronic Braille notetaker

Mathematics

- Large print measuring tools
- Large key calculator
- Tactile measuring devices
- Abacus
- Talking calculator
- Models or 2D and 3D geometric shapes
- Tiger embossed, PIAF Tactile representation

Pictorial Information

- Enlarged format
- CCTV
- Models or objects
- Tactile graphics
- Tactile-audio graphics

Note taking

- Slate and stylus
- Tape or digital recording device
- Computer-based recording software
- Electronic Braille note taker

HEARING

Hearing Technology

- FM
- Infrared
- Induction Loop
- 1:1 Communicators
- Personal amplification

Alerting

- Visual or vibrating alerting devices

Communication

- Telecommunication supports
- Closed captioning
- Person to person
- Classroom/group activities
- Voice to text/sign
- Real-time captioning

Writing

- High contrast pen
- Portable word processing device
- Typing with audio support
- Braillewriter
- Typing with Braille support
- Electronic Braille note taker
- Voice recognition

Mobility

- Cane
- Monocular
- Braille/talking compass
- Electronic travel device
- GPS device

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Free copies of the most current version of the WATI Resource Manual for Assessing Students' Needs for Assistive Technology (ASNAT), and additional AT related information, can be found at www.wati.org.

References

EC 56360, 56361, 56363, 56365-56366.7

CCR 3051, 3060-3064, 3065

Business and Professional Code, Section 2530.2 (f)

Assistive technology needs must be considered for each individual with a disability. Amendments to the Individuals with Disabilities Act of 1997 (IDEA) require the IEP team to consider whether the child requires assistive technology and services (IDEA; 20 U.S.C. Section 1414 (d) (3) (B) (v))

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- The evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
- Purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by such child;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
- Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for such child, or when appropriate, the family of such child;
- Training or technical assistance for professionals, including individuals providing education and rehabilitation services to the child or otherwise substantially involved in the major life functions of such child.

Kinds of Assistive Technology and Services that are to be Considered by the IEP Team

It is important that members of the IEP team recognize that technology is just one strategy in a multi-faceted approach in addressing the needs and strengths of students with disabilities. IEP teams will therefore need to balance the degree of technology assistance with the student's learning potential, motivation, chronological developmental level and goals/objectives, which include, but are not limited to:

3. **Low-Tech:** Equipment and other supports readily available in schools, including off-the-shelf items to accommodate the needs of students, which can be provided by general/special education through the Student Study Team (SST)/IEP processes (e.g., calculators, tape, recorder, pencil grip, and larger pencils).
4. **High-Tech:** Supports students who may need more specialized equipment and support services beyond basic assistive technology, often students with low incidence and/or significant/severe disabilities, which

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requires more in-depth assessment (e.g., closed circuit television (CCTV), FM systems, augmentative communication devices, sound field systems, alternative computer access, and specialized software).

The Process for Considering Whether the Child Requires Assistive Technology and Services

Assistive technology is as much a process as a product. Assistive technology is a tool for access (e.g., school environment, core curriculum,) and for independence (e.g., communication, mobility) and will therefore change as the needs of the student change and as technology continues to change. The need for assistive technology should therefore be an integral part of a comprehensive assessment for students with disabilities in all areas related to their disabilities, as appropriate, for each student and must be considered by the IEP team, based upon the student's assessed needs and strengths. It is important to use a collaborative school-based team approach in education settings for assessment, planning, and provision of needed assistive technology, which includes individuals who are knowledgeable about the student's disability needs and strengths in the area of assistive technology.

The **Wisconsin Assistive Technology Initiative** developed a "checklist" of additional examples of assistive technology which may be needed by students.

It is also important to consider and use the technology purchased with state and federal technology funds for **all** students (e.g., computers, basic software), and to request funding for students with disabilities who do not have access to the technology purchased with these funds.

WATI Assistive Technology Checklist

COMPUTER ACCESS

- Keyboard using accessibility options
- Word prediction, abbreviation/expansion to reduce keystrokes
- Keyguard
- Arm support
- Track ball/track pad/joystick with on-screen keyboard
- Alternate keyboard
- Mouth stick/head mouse with on-screen keyboard
- Switch with Morse code
- Switch with scanning
- Voice recognition software
- Other: _____

WRITING

Motor Aspects of Writing

- Regular pencil/pen
- Pencil/pen with adaptive grip
- Adapted paper (e.g. raised line, highlighted lines)
- Slantboard
- Use of prewritten words/phrases
- Portable word processor to keyboard instead of write
- Computer with word processing software
- Portable scanner with word processing software
- Voice recognition software to word process
- Other: _____

Composing Written Material

- Word cards/word book/word wall
- Pocket dictionary/thesaurus
- Writing templates/ Electronic/talking electronic dictionary/thesaurus/spell checker
- Word processing with spell checker/grammar checker
- Talking word processing

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

- ☐ Abbreviation/expansion
- ☐ Word processing with writing supports
- ☐ Multimedia software
- ☐ Voice recognition software
- ☐ Other: _____

COMMUNICATION

- ☐ Communication board/book with pictures/objects/ letters/words
- ☐ Eye gaze board/frame communication system
- ☐ Simple voice output device
- ☐ Voice output device w/levels
- ☐ Voice output device w/icon sequencing
- ☐ Voice output device w/dynamic display
- ☐ Device w/speech synthesis for typing
- ☐ Other: _____

READING, STUDYING, AND MATH

Reading

- ☐ Standard text
- ☐ Predictable books
- ☐ Changes in text size, spacing, color, background color
- ☐ Book adapted for page turning (e.g. page fluffers, 3-ringbinder)
- ☐ Use of pictures/symbols with text
- ☐ Talking electronic device/software to pronounce challenging words
- ☐ Single word scanners
- ☐ Scanner w/OCR and text to speech software
- ☐ Software to read websites and emails
- ☐ 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.)
- ☐ Recorded material (books on tape, taped lectures with number coded index, etc.)
- ☐ Voice output reminders for assignments, steps of task, etc.
- ☐ Electronic organizers
- ☐ Pagers/electronic reminders
- ☐ Single word scanners
- ☐ Hand-held scanners
- ☐ Software for concept development/manipulation of objects – may use alternate input device, e.g. switch, Touch Window
- ☐ Software for organization of ideas and studying
- ☐ Palm computers
- ☐ Other: _____

Math

- ☐ Abacus/Math Line
- ☐ Enlarged math worksheets
- ☐ Low tech alternatives for answering
- ☐ Math "Smart Chart"
- ☐ Money calculator and Coinulator
- ☐ Tactile/voice output measuring devices
- ☐ Talking watches/clocks
- ☐ Calculator/calculator with printout
- ☐ Calculator with large keys and/or large display
- ☐ Talking calculator
- ☐ Calculator with special features (e.g. fraction translation)
- ☐ On-screen/scanning calculator
- ☐ Alternative keyboard

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- Software with cueing for math computation (may use adapted input methods)
- Voice recognition software

RECREATION AND LEISURE

- Toys adapted with Velcro, magnets, handles, etc.
- Toys adapted for single switch operation
- Adaptive sporting equipment (e.g. lighted or beeping ball)
- Universal cuff/strap to hold crayons, markers, etc.
- Modified utensils (e.g. rubber stamps, brushes, etc.)
- Ergo Rest or other arm support for drawing/painting
- Electronic aids to control/operate TV, VCR, CD player, etc.
- Software
- Completion of art activities
- Games on the computer
- Other computer software
- Other: _____

ACTIVITIES OF DAILY LIVING (ADLS)

- Non slip materials to hold things in place
- Universal cuff/strap to hold items in hand
- Color coded items for easier locating and identifying
- Adaptive eating utensils (e.g. foam handles, deep sides)
- Adaptive drinking devices (e.g. cup with cut-out rim)
- Adaptive dressing equipment (e.g. button hook, elastic shoelaces, Velcro instead of buttons, etc.)
- Adaptive devices for hygiene (e.g. adapted toothbrush, raised toilet seat, etc.)
- Adaptive bathing devices
- Adaptive equipment for cooking
- Other: _____

MOBILITY

- Walker
- Grab bars and rails
- Manual wheelchair including sports chair
- Powered mobility toy (e.g. Cooper Car, GoBot)
- Powered scooter or cart
- Powered wheelchair w/ joystick or other control
- Adapted vehicle for driving
- Other: _____

POSITIONING AND SEATING

- Non-slip surface on chair to prevent slipping (e.g. Dycem)
- Bolster, rolled towel, blocks for feet
- Adapted/alternate chair, sidelyer, stander
- Custom fitted wheelchair or insert
- Other: _____

VISION

- Eye glasses
- Optical aids
- Large print materials
- Auditory materials
- Dictation software (voice input)
- CCTV (closed circuit television)
- Screen magnifier (mounted over screen)
- Screen magnification software
- Screen color contrast
- Screen reader, text reader

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- Braille notetaker
- Braille translation software
- Braille embosser
- Enlarged or Braille/tactile labels for keyboard
- Alternate keyboard
- Other: _____

HEARING

- Pen and paper
- Computer/portable word processor
- TDD for phone access with or without relay
- Signaling device (e.g. flashing light or vibrating pager)
- Closed captioning
- Real Time captioning
- Computer aided note taking
- Screen flash for alert signals on computer
- Phone amplifier
- Personal amplification system/hearing aid
- FM or loop system
- Infrared system
- Other: _____

To order a copy of the complete Resource Manual for Assessing Student's Needs for Assistive Technology (\$50.00, including shipping and handling), contact:

Polk Library
800 Algoma Blvd.
Oshgosh, MI 54901
920/424-2247
fax 920 424-1396 (for purchase orders)

For information about other materials that have been developed by WATI, contact:
<http://www.wati.org> or telephone 715/565-8135

References

EC 56360, 56361, 56363, 56365-56366.7
CCR 3060-3064, 3065
Business and Professional Code, Section 2530.2 (f)
IDEA 1997; 20 U.S.C. Section 1414 (d)(3)(B)(v)

APPENDIX A

West End SELPA

GUIDELINE STATEMENT – LEAST RESTRICTIVE ENVIRONMENT

It is the philosophy of the West End Special Education Local Plan Area that all individuals with exceptional needs shall be provided a free and appropriate education in the least restrictive environment. This philosophy is in accordance with state and federal mandates and specifically includes changes that were made in the provisions of the Individuals with Disabilities Education Act (IDEA) which addresses issues of education of students with disabilities in the least restrictive environment (LRE).

A full continuum of program options is available for educational placement of students with disabilities. Program options shall provide a spectrum of educational offerings, which range from regular alternatives to a site structured to deliver intense and specialized services. The Individual Education Program team remains the primary decision-making body in determining the individual needs of students and the appropriate placement for them. A strong preference for educating students with disabilities in general education classes with appropriate aids and services is made to ensure that special education students participate in meaningful academic and extra-curricular activities, including meals, recess periods, and other activities, to the greatest extent possible.

The student's instructional program includes the core curriculum as well as the specific goals and objectives of the IEP. Instruction as well as coordination of instruction will vary depending upon the concepts and skills being taught. The instruction may take place in the regular classroom, special education classroom, or community environment.

Students with low incidence disabilities receive services consistent with the state guidelines and students, including those who are ethnically and culturally diverse, are referred after general education modifications are deemed to be not appropriate. They are identified and served in special education in accordance with appropriate, legal assessment standards. The SELPA staff and district program administrators review programs and services on a regular basis to determine whether or not a disproportionate representation exists.

If the IEP team determines support to staff is necessary, then those services must be delineated in the student's IEP. Such services may include, but are not limited to, staff development activities including disability awareness in-services, classroom visitations, and training in appropriately developed curricular programs.

If the IEP team determines that the student requires supplemental aids or services, then those services must also be delineated in the student's IEP and provided to the student. Such reports may include, but are not limited to, Braille instruction, positive behavioral interventions, communication aids, assistive technology devices and services, language supports, related services, curricular modifications or adaptations, and classroom assistant support.

If it is determined that a student with disabilities cannot be educated satisfactorily in general education classroom even for some portion of the school day, then the student's IEP team must provide the specific rationale for this on the IEP and select the appropriate option in the array of alternative placements that best meets the student needs. Whatever placement and program is determined appropriate for the student within the IEP process, opportunities must be maximized for the student to interact with non-

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disabled peers to the greatest extent appropriate. Discussions by the team should continue regarding transition to less restrictive settings within the continuum of options. Every effort is made to encourage successful transition toward the least restrictive environment in which a student is capable of achieving.

In accordance with state requirements, the SELPA is prepared to work with the California Department of Education on student performance standards to address the success of special education programs and services. All students with disabilities, regardless of placement or program, must have access to the general education curriculum and to district and state assessments. All students, including those with disabilities, must be held to high expectations, according to state and district standards of performance, as delineated in their IEPs. If the IEP team determines that the student cannot participate in the district and/or state assessments even with accommodation(s), the student must participate in the state alternative assessment program.

In summary, all students shall be educated to the maximum extent possible with children who are not disabled, unless there are demonstrated and compelling reasons why a student must be provided education in a special class or center. As appropriate, a special education student may be educated with students who are less disabled than he or she may be, which may not be the least restrictive environment, but one that is considered to be less restrictive.

Reference: EC 56205(a), 20USC 1412(a)(5)(A)

Date: 03/27/02

Approved: PAC

APPENDIX B –

**Note: *The full TSNA Manual can be downloaded
from the
SEIS library***

Determining the Need For Temporary Special Needs Assistant

**A Manual for Decision Making
and Planning**



CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

8265 Aspen Avenue, Suite 200, Rancho Cucamonga, CA 91730

909-481-4547 FAX 909-987-2279

Procedures and Guidelines for Related Services of Temporary Special Needs Assistant (TSNA)

Guiding Principles

Rationale

Every school district within the West End 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 2004) and California laws and regulations describe a continuum of alternative placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (34 CFR Section 300.551(b)(1)). Both federal and state laws also contain provisions to ensure that children with disabilities are educated to the maximum extent possible with children who are not disabled, and that children are removed from the general education environment only when the nature and severity of the disability is such that education in the regular classroom cannot be satisfactorily achieved with the use of related services.

Special Needs Assistance/Support

By law, services to students with special needs must be delivered in the "least restrictive environment." When an IEP team is considering special circumstance support for a student, all aspects of the student's program must be considered with the intent of maximizing student independence. The teacher(s) is responsible for the design and implementation of the student's program.

Factors for Special Circumstances

Whenever special circumstance support is being considered by an IEP team for a student with special needs, the following factors need to be considered:

Personal Independence

First and foremost, an important goal for all special education students is to encourage, promote, and maximize independence. If not carefully monitored, special circumstance assistance can easily and unintentionally foster dependence. A student's total educational program must be carefully evaluated to determine where support is indicated. Natural support and existing staff support should be used whenever possible to promote the least restrictive environment.

The general categories to be considered for Temporary Special Needs Assistant include:

1. Health/Personal Care Issues
2. Behavior Support
3. Instruction
4. Inclusion/Mainstreaming

Related Services

California's related services as defined in Education Code and Title 5 regulations are referred to as Designated Instruction and Services or DIS and are generally defined as follows:

"Related services means those services that are necessary for a pupil with a disability to benefit from his or her special education program in accordance with title 20 USC 1401 (22). (CCR Title 2 60010(S))." Further,

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as per CCR title 2 30010(h), "Designated Instruction and Services means specially designed instruction and related services, as may be required to assist a pupil with a disability to benefit educationally."

IEP teams should identify the need for related services based on appropriate documentation and assessment. If the IEP team recommends such services, the following statements must be considered for inclusion in the IEP:

- a) The related service is necessary to the child to benefit from his/her special education program;
- b) The program modifications or supports for school personnel are necessary to assist the child;
and
- c) The related service will assist the child to:
 - Advance appropriately toward the annual goals;
 - Be involved in and progress in the general curriculum;
 - Participate in extracurricular and other nonacademic activities; and,
 - Be educated and participate with other disabled and non-disabled children.

The IEP team shall address the means for reviewing and evaluating the necessity of continuing Temporary Special Needs Assistant services to the student.

The IEP team shall also include a statement of the anticipated frequency and duration for the services and modifications.

If it is determined that additional personnel support is required, the IEP team should periodically review the effectiveness of this additional support. A systematic, written plan needs to address how additional personnel support will be monitored.

For services requiring additional personnel support as a result of a child's behavioral difficulties, the child's IEP needs to include appropriate goals and objectives. In addition, a behavioral plan should be developed, or if appropriate, a Behavioral Intervention Plan should be developed in accordance with Sections 3001 and 3052 in Title 5, California Code of Regulations. The behavior plan needs to include a provision describing how and when support, including personnel, will be utilized to implement the plan, and when the plan will be reviewed and modified.

When determining a need for additional personnel support due to an instructional need, the IEP team must utilize appropriate assessment information to support this recommendation. The written plan must be developed by a general and/or special education teacher specifying how the additional personnel will be utilized to support the teacher in implementing the student's goals and objectives and what attempts will be made to transition to other available classroom resources and supports.

When a need for additional support is due to medical need, a specialized health care plan will need to be developed.

When special circumstance assistance is being considered for a specific student, a district representative shall be required to participate in the decision making process of the IEP meeting.

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WEST END SPECIAL EDUCATION LOCAL PLAN AREA

8265 Aspen Avenue, Suite 200 Rancho Cucamonga, CA 91730

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Procedures for Requesting Temporary Special Needs Assistant (TSNA)

Temporary Special Needs Assistant (TSNA) may be provided for students with disabilities when additional support is necessary to the student in order to meet his or her goals and objectives and to benefit educationally. Whenever possible, additional assistance is assigned to a school environment, class, or case manager. Occasionally, however, a student requires individual support for a designated period of time to address a unique need. By law, services to students with special needs must be delivered in the "least restrictive environment." When the IEP team is considering TSNA, all aspects of the student's program must be considered. A request for TSNA is made only after other site interventions have proven to be ineffective. A student's educational program must be carefully evaluated to determine when and where the additional support is required. Additionally, the IEP team must plan for periodic reviews to assess the continued need for this type of individualized assistance.

It is expected that students enrolling in a non-public school will not require TSNA support. For students currently in NPS, if the need for TSNA becomes evident, the NPS should contact the student's district of residence to initiate a referral for a TSNA evaluation. The district will evaluate the student and present findings and recommendations to the IEP team. Whether in public school or NPS, if the student already has a TSNA, it is recommended that the district conduct an evaluation to determine the continued need for a TSNA prior to the next annual IEP meeting. When a student new to the district/SELPA enrolls with an existing IEP that indicates TSNA services, staff should be assigned as soon as practicable during the 30 day interim placement to provide the student with comparable services based on the last agreed upon IEP from the previous district (EC 56325). If an evaluation is warranted to determine the continued need for a TSNA, it should be completed during the 30 day interim placement.

Step 1: Referral for TSNA

If the principal and special education team at the site believe extra support may be necessary to meet the student's goals and objectives, they must conduct an evaluation of the student's needs prior to an IEP meeting, at which time this topic will be considered. The **Referral for Temporary Special Needs Assistant (Step 1, Form 1)** needs to be completed. Use the **Student Needs for Additional Support Rubric (Step 1, Forms 2(a) and (b))** to assist in quantifying the severity of student need. Supporting documentation should include **Review of IEP Goals (Step 1, Form 3)**, **Review of Behavior Support Plan (BSP) or Behavioral Intervention Plan (BIP) (Step 1, Form 4)** and review of other documents as appropriate, such as a nurse's assessment, health report, discipline records, independent assessments, etc.

If the parent requests additional support, the school principal, designee, or special education director shall confer with the parent to clarify his or her concerns, discuss options, and assist the parent in completing the Reason for Referral and Other Unique Needs sections of the **Referral for Temporary Special Needs Assistant (Step 1, Form 1)**. The parent should sign as the Person Requesting Referral. The 15-day timeline for developing the Evaluation Plan begins on the date of the parent signature.

If TSNA is requested during an IEP meeting without a previous referral, the procedure for requesting TSNA must be initiated at that time. The IEP meeting should be completed and the referral for TSNA should be indicated on the IEP. Another IEP meeting will need to be scheduled to review the results of the evaluation.

Submit the **Referral for Temporary Special Needs Assistant (Step 1, Form 1)**, **Student Needs for Additional Support Rubric (Step 1, Form 2(a) and (b))**, **Review of IEP Goals (Step 1, Form 3)**, **Review of Behavior Support**

CHAPTER 5 – SUPPORTS AND SERVICES – A CONTINUUM OF OPTIONS

Plan (BSP) or Behavioral Intervention Plan (BIP) (Step 1, Form 4) if appropriate, with additional supplemental documentation, if necessary, to the Director of Special Education.

Step 2: Assessment Plan and Parent Permission

The Director of Special Education will assign the referral to appropriate staff that will be responsible for securing written parent consent on an Assessment Plan within 15 days of completion of the referral.

Step 3: Parent/Teacher/Student Interviews

Best practices would be for the interviews to be completed at the beginning of the evaluation process. The TSNA case manager should complete the **TSNA Parent Interview (Step 3, Form 1)** and the **TSNA Teacher Interview (Step 3, Form 2)** to identify specific areas of concern. It is usually appropriate to also complete the **TSNA Student Interview (Step 3, Form 3)**.

Step 4: Complete Evaluation including Observational Evaluation

It is the responsibility of the TSNA case manager/coordinator to ensure that the observation is completed, using the **Observational Evaluation for TSNA (Step 4, Form 1)**. The TSNA case manager, in addition to the other appropriate assessors, will review strategies, materials, modifications, and/or accommodations currently in place to assist the student toward achieving goals and objectives.

Step 5: Develop TSNA Evaluation Report

When an IEP team is considering TSNA for a student, all aspects of the student's program must be considered with the intent of maximizing student independence. The **TSNA Evaluation Report (Step 5, Form 1)** should address the areas of concern identified in the referral, assessments, interviews, and observations. The TSNA case manager will ensure the **TSNA Evaluation Report (Step 5, Form 1)** is developed.

Step 6: Review Evaluation at IEP Meeting

Within 60 days following the receipt of parent consent to evaluate for TSNA, an IEP team shall review the results of the evaluation and recommendations at an IEP meeting. If the IEP team determines a need for TSNA, it is written on the IEP with specific goals and objectives, monitoring strategies, fading strategies, and review dates. Regardless of the circumstances that may indicate the need for support, it is imperative for every IEP to address the skills that will be taught in order for TSNA to be faded. The level of support required for the student to advance appropriately toward annual goals needs to be defined. A systematic, written plan should specify how additional support should be utilized and monitored. An IEP meeting should be convened if necessary to modify TSNA. Discussion at this meeting should be concluded with a written plan outlining the team's criteria and possible timeline for phasing out the necessity for TSNA.

Step 7: Request/Assign TSNA

When the IEP team has determined that TSNA is required, the Special Education Director or designee will process the appropriate paperwork in accordance with district procedures. The District may use their own LEA request form or **Temporary Special Needs Assistant (TSNA) Request Form (Step 7, Form 1)**

Step 8: Observational Review

The goal for any student with special needs is to encourage, promote, and maximize independence. Periodic observations and review of data may be required to assess the effectiveness of this additional support and to monitor the duration of services.

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The **Observational Review to Determine Continued Need for TSNA (Step 8, Form 1)** is used if direct observation of the student is required. The IEP team should identify the next scheduled observation date, often within six months and no later than the next annual IEP review, to continually monitor the effectiveness of TSNA provided to student.

Training

It is critical that all staff receive appropriate training on the student's health issues, curriculum modifications, the student's instructional environment, behavior interventions, using and fading prompts, data collection and reporting, etc.

Chapter 6

STUDENT PROMOTION AND RETENTION

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SECTION B	STUDENTS WITH SPECIAL NEEDS.....	6-4

Section A – General Promotion and Retention Information

The current legislation requires local school districts to develop criteria for retaining students and to implement intensive interventions for those students that meet district-developed criteria for retention. Local school districts are required to develop a program for specific grade levels that identifies these students as early as possible in the school year and provides opportunities for them to improve their academic skills. For students with special needs who receive the core curriculum, the same academic standards and frameworks shall be accessed. It is the responsibility of the IEP team to determine if the students with special needs will require accommodations, supports, or services to achieve these standards.

EC 48070 *The governing board of each school district and each county superintendent of schools shall adopt policies regarding pupil promotion and retention. A pupil shall be promoted or retained only as provided in the policies adopted pursuant to the article.*

EC 48070.5 (a)-(j) Contains specific information for formulating local school district policies and procedures concerning student promotion and retention.

48070.5. (a) In addition to the policy adopted pursuant to Section 48070, the governing board of each school district and each county board of education shall, in those applicable grade levels, approve a policy regarding the promotion and retention of pupils between the following grades:

- (1) Between second grade and third grade.*
- (2) Between third grade and fourth grade.*
- (3) Between fourth and fifth grade.*
- (4) Between the end of the intermediate grades and the beginning of middle school grades which typically occurs between sixth grade and seventh grade, but may vary depending upon the grade configuration of the school or school district.*
- (5) Between the end of the middle school grades and the beginning of high school which typically occurs between eighth grade and ninth grade, but may vary depending upon the grade configuration of the school or school district.*

(b) The policy shall provide for the identification of pupils who should be retained and who are at risk of being retained in their current grade level on the basis of either of the following:

(1) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and the minimum levels of proficiency recommended by the State Board of Education pursuant to Section 60648.

(2) The pupil's grades and other indicators of academic achievement designated by the district.

(c) The policy shall base the identification of pupils pursuant to subdivision (b) at the grade levels identified pursuant to paragraph (1) and (2) of subdivision (a) primarily on the basis of the pupil's level of proficiency in reading. The policy shall base the identification of pupils pursuant to subdivision (b) at the grade levels identified pursuant to paragraphs (3) through (5) of subdivision (a) on the basis of the pupil's level of proficiency in reading, English language arts, and mathematics.

(d) (1) If either measure identified in paragraph (1) or (2) of subdivision (b) identifies that a pupil is performing below the minimum standard for promotion, the pupil shall be retained in his or her current grade level unless the pupil's regular classroom teacher determines in writing that retention is not the appropriate intervention for the pupil's academic deficiencies. This written determination shall specify the reasons that retention is not appropriate for the pupil and shall include recommendations for interventions other than

CHAPTER 6 – STUDENT PROMOTION AND RETENTION

retention that in the opinion of the teacher are necessary to assist the pupil to attain acceptable levels of academic achievement. If the teacher's recommendation to promote is contingent upon the pupil's participation in a summer school or interim session remediation program, the pupil's academic performance shall be reassessed at the end of the remediation program, and the decision to retain or promote the pupil shall be reevaluated at that time. The teacher's evaluation shall be provided to and discussed with the pupil's parent or guardian and the school principal before any final determination of pupil retention or promotion.

(2) If the pupil does not have a single regular classroom teacher, the policy adopted by the school district shall specify the teacher or teachers responsible for the promotion or retention decision.

(e) The policy shall provide for parental notification when a pupil is identified as being at risk of retention. This notice shall be provided as early in the school year as practicable. The policy shall provide a pupil's parent or guardian the opportunity to consult with the teacher or teachers responsible for the decision to promote or retain the pupil.

(f) The policy shall provide a process whereby the decision of the teacher to retain or promote a pupil may be appealed. If an appeal is made, the burden shall be on the appealing party to show why the decision of the teacher should be overruled.

(g) The policy shall provide that pupils who are at-risk of being retained in their current grade be identified as early in the school year, and as early in their school careers, as practicable.

(h) The policy shall indicate the manner in which opportunities for remedial instruction will be provided to pupils who are recommended for retention or who are identified as being at risk for retention.

(i) The policy adopted pursuant to this section shall be adopted at a public meeting of the governing board of the school district.

(j) Nothing in this section shall be construed to prohibit the retention of a pupil not included in grade levels identified pursuant to subdivision (a), or for reasons other than those specified in subdivision (b), if such retention is determined to be appropriate for that pupil. Nothing in this section shall be construed to prohibit a governing board from adopting promotion and retention policies that exceed the criteria established in this section.

Local school districts have been charged with the responsibility of developing a policy that outlines student promotion and retention procedures. This policy must include the following components; a process for parental notification, an appeal process, a method of early identification of pupils, a plan for early interventions, identifying teachers as responsible for promotion or retention decisions, and adoption of the policy at a public meeting. Once this policy is established and adopted, the local school district should inform the community of the intent and requirements of these policies. When developing this policy, the committee members, including administrators, teachers, parents, and community members shall examine policy for the following academic areas; students in:

1. Second and third grade in reading,
2. Third and fourth grade in reading,
3. Fourth and fifth grade in reading, English language arts, and math,
4. The end of the intermediate grades and the beginning of middle school grades in reading, English language arts, and math, and
5. The end of middle school grades and the beginning of high school in reading, English language arts, and math.

Using these grades and subject areas as indicators, local school districts shall identify students for retention based on the following criteria:

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- State testing results and the minimum levels of proficiency adopted by the State Board of Education pursuant to Section 60648.
- The student's grade or other indicators of academic achievement designated by the district.

Although these are targeted grade levels, students may be retained in any grade if they are not meeting the established criteria for promotion.

Once students who are at risk of retention have been identified, the local school district shall adopt policies and procedures that provide academic interventions for these students. The California Reading Initiative requires minimum amounts of classroom time that must be devoted to the instruction of reading. It is recommended that students with IEPs have additional instruction of 30 to 45 minutes daily. Opportunities might include such activities as supplemental instruction in the form of tutorial programs, before and after-school programs, Saturday classes, summer school programs, intersession, a combination of activities, and the establishment of a Student Study Team, if not already in existence. These programs are provided in addition to the regular school day activities and curriculum and may not take the student away from classroom instruction in the core curriculum.

Participation in summer school programs for students who are retained may be required by the school district. Participation is determined in the following order: students recommended for retention or at risk of retention, students identified as scoring low in reading, language arts, and/or math, or state test results or other evaluative criteria used to identify eligible students. Since attendance is not compulsory, however, parents or guardians may decline to have their student participate in the summer program.

The classroom teacher is responsible for the decision to retain or promote a student based on the criteria outlined in the local school district policy. When a student has one or more teachers, the district shall designate which one will be responsible for the decision. If the student meets or exceeds the criteria, the student will be promoted to the next grade. If the student does not meet the criteria, the teacher can select to promote the student based on in-class and other district-wide measurements. If the teacher decides to promote the student, he/she would present a written statement that includes the reason that retention is not warranted and recommendations for interventions to attain an acceptable level of performance. If the final recommendation to promote is based on successful completion of a district intervention program, the student shall be reassessed at the end of the program and the decision to promote or retain would be made at that time. The decision of the teacher shall be discussed with both the parent and principal prior to the decision being finalized.

For parents that do not agree with the decision to retain their student, the local school district shall have an established appeal process. The burden of proof is on the part of the party appealing the teacher's decision.

For students exhibiting high academic achievement, the Superintendent or designee may recommend that a student be accelerated to a grade higher than their current placement. The student's emotional and social growth would be taken in account prior to a decision of this nature being made on behalf of the student.

Section B – Students with Special Needs

AB 1626 makes no reference to the issue of students with special needs as they relate to retention and promotion. The IEP document continues to be the critical process in determining the expected level of performance and achievement. Therefore, retention and promotion issues should be topics of discussion at the student's annual IEP meeting. Promotion or retention of students with special needs should be based on the level of mastery expected and achieved on the IEP goals and objectives. The IEP team may develop

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individual promotion standards within the context of the district adopted standards. Individual promotion standards should be developed before the first day of school or at the next IEP meeting. Each of the IEP team members should be aware that individualized promotion standards might not meet the district requirements for graduating with a diploma.

Since IDEA requires that students with special needs participate in state and district assessment to the greatest extent possible, the local school district is required to ensure that these students are involved in the core curriculum or an alternate curriculum that is based upon the core curriculum. If accommodations are necessary for the student to successfully participate in the curriculum or testing, the IEP team should outline these accommodations in the student's IEP.

If retention is a possibility for a student with special needs, an IEP meeting should be called as soon as possible. The following should be considered at the IEP meeting:

- Is the current IEP for the student's academic, linguistic, social, emotional, and behavioral needs appropriate?
- Is the manner of assessment, including any accommodations and modifications, identified in the IEP appropriate?
- Were all the services required by the student to make progress in the general education curriculum appropriately identified in the student's IEP?
- Did the student receive all the services identified in the IEP?
- Were the linguistic needs of English language learners appropriately identified?
- Was the assessment conducted consistent with the IEP?
- Was the student's promotion standard appropriate and clarified at the IEP?

If the above questions were answered positively, the student should be required to attend the Intensive Instructional Program developed by the local school board pursuant to EC 37252.5. If the summer school program is an option, before the end of the school year, the IEP team should document all supported and related services the student will need to benefit from that program. If the above questions were answered in the negative, the IEP team should determine why such supports were not provided, develop an alternative plan, provide the summer school option, and consider not retaining the student.

Chapter 7

PROCEDURAL SAFEGUARDS

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Introduction

The West End SELPA is committed to the assessment, identification, and placement of students with exceptional needs in the appropriate and least restrictive environment. During these processes, parents are afforded their rights through procedural safeguards that are established in accordance with state and federal guidelines. A due process hearing can be initiated at any time during these processes by the parent, the student and/or the school district. Hearings may be filed when a dispute exists between the parent and the education agency concerning the provision of special education services, the student's eligibility for special education, need for assessment, and/or the student's program. Alternative options and guidelines for filing are outlined in this chapter. If programs and services are not provided according to the IEP, the parent may file a complaint with the California Department of Education.

Each participating local education agency shall ensure that parents receive written notification of their procedural safeguards including their right to file a complaint or for a due process hearing. Per Ed Code 56301(d)(2) 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 to the parents:

- (1) Upon initial referral for assessment
- (2) Upon parental request for assessment
- (3) Upon the first occurrence of the filing for a due process hearing; and
- (4) Upon request by a parent.

The notice of procedural safeguards shall be available in the primary language of parents whose primary language is not English, unless to do so is clearly not feasible. The written notice shall be in language easily understood by the general public and shall include the following:

- (1) The right to initiate a referral of a child for special education services
- (2) The right to obtain an independent educational assessment
- (3) The right to participate in the development of the IEP and to be informed of the availability of free appropriate public education and of all available alternative programs, both public and nonpublic.

Planning for the needs of non-English speaking parents shall include access to interpreters and translators, unless to do so clearly is not feasible.

Section A – Procedural Safeguards

EC 56500.1 (a) *All procedural safeguards under the Individuals with Disabilities Education Act shall be established and maintained by each non-educational and educational agency that provides education, related services, or both, to children who are individuals with exceptional needs. (b) At each individualized education program meeting, the public education agency responsible for convening the meeting shall inform the parent and pupil of the federal and state procedural safeguards that were provided in the notice of parent rights pursuant to Section 56321.*

EC 56028 (a) (1)-(5) *"Parent" means any of the following:*

- (1) *A biological or adoptive parent of a child.*
- (2) *A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30 (b) (1) or (2) of Title 34 of the Code of Federal Regulations.*

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- (3) *A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child.*
- (4) *An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.*
- (5) *A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 or Title 34 of the Code of Federal Regulations and Section 1439 (a)(5) of Title 20 of the United States Code*

Procedural Safeguards

The law requires that local education agencies establish procedures to protect the rights of individuals with exceptional needs and their parents or guardians. These procedures are called procedural safeguards. Parents have a right to receive a written copy of the West End SELPA procedural safeguards. These are provided: Per Ed Code 56301(d)(2) 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 to the parents: (1) Upon initial referral for assessment; (2) Upon parental request for assessment; (3) Upon the first occurrence of the filing for a due process hearing; and (4) Upon request by a parent.

Parents are afforded these rights through the processes of assessment, as well as under the design and implementation of their student's IEP. Definitions of terms used in the document are included in order to assist parents with further understanding of their rights. The written copy of the parent's rights is provided in the parent's native language, unless it is clearly not feasible, or in their primary mode of communication, if their language is not written.

A complete copy of the West End SELPA Notice to Parent/Guardian/Surrogate regarding parental procedural safeguards is available in both English and Spanish (Form 004-E and 004-S) and is available through the district special education office or West End SELPA office.

Foster Parents

In cases where the juvenile court has limited the right of the parent or guardian to make educational decisions, California Education Code 56055 allows foster parents to represent the foster child for the duration of the foster parent-foster child relationship in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising an individualized education program, if necessary, and in all other matters relating to the provision of a free appropriate public education of the child.

***EC 56055(d)** For purposes of this section, a foster parent shall include a person, relative caretaker, or non-relative extended family member as defined in Section 362.7 of the Welfare and Institutions Code, who has been licensed or approved by the county welfare department, county probation department, or the State Department of Social Services, or who has been designated by the court as a specified representative.*

Surrogate Parents

Federal Regulation, 34 C.F.R. 300.514, and California State Statute, EC 56050, mandates the appointment of a surrogate parent to ensure the educational rights of a child with exceptional needs when (1) (A) The child is adjudicated a dependent or ward of the court, (B) the court has specifically limited the right of the parent or guardian to make educational decisions for the child and (C) the child has no responsible adult to represent him. (2) No parent for the child can be identified. (3) The local educational agency, after reasonable efforts, cannot discover the location of a parent. The surrogate parent shall act as the child's parent and have all rights as delineated in federal and state law.

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A local educational agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent.

In order to meet the needs of the federal and state mandates, the West End SELPA staff supports the utilization of surrogate parents by developing procedures for the surrogate parent program and implementing a training program for districts' staff and surrogate parent nominees. Individual districts will determine which students require the services of a surrogate parent, nominate surrogate parent volunteers, appoint the surrogate parent after they have successfully completed West End SELPA training, supervise the surrogate parent, and then evaluate the surrogate parent annually.

Applications for the surrogate parenting program are available from the West End SELPA office. The prospective candidate should complete and return the application to that office. To be eligible, it must be established that the volunteer has no interest that would conflict with the interest of the student. For example, the volunteer cannot be employed by any local education agency or hold a position that might restrict or bias his/her ability to make decisions regarding the student's educational needs. Once the West End SELPA trains the surrogate, the district is free to appoint the parent to serve as a surrogate for students with exceptional needs within that district. The surrogate parent may represent the student in matters relating to: identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized educational program, and in all other matters relating to the provision of a free appropriate public education for the student.

Age of Majority

EC 56014.5 When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under state law, the local education agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded to the parent under this part shall transfer to the individual with exceptional needs. The local education agency shall notify the individual and the parent of the transfer of rights.

Section B – IEP Meeting Options

In an attempt to resolve disagreements regarding placement and/or services, districts have varying levels of IEP meetings that can be conducted prior to referral for WESELPA assistance.

School/District IEP Meeting

Within SIXTY (60) days of receipt of the signed Assessment Plan, the case carrier will schedule a school site IEP meeting to review results and come to agreement on district level special education placement and/or services.

County Operations or Provider District IEP Meeting

If appropriate placement and/or services are not available at the school or district site, the district office refers to County Operations or a Provider District for an IEP meeting. At this meeting, the team members discuss program options offered through County Operations or a Provider District.

Standard Referral Process

1. District sends referral packet to the provider district office. Referral packet is to include:
 - Referral for Placement Consideration cover sheet (WESELPA 014) signed by district office

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- Current IEP including behavior support plan if applicable
- Current Triennial evaluation

Note: When the referral is for initial placement in special education, the student will not have a current IEP or current triennial evaluation, the Referral for Special Education form should be submitted in place of these documents.

2. The provider district will log and send referral to appropriate administrator/ administrative designee.
3. The administrator/administrative designee will review referral then contact district representative to discuss referral and to agree upon IEP meeting date and location.
4. Referring district to send IEP notices.
5. Joint IEP meeting is held.
Referring district staff to:
 - Chair IEP meeting
 - Provide present levels of functioning and suggested goals, if initial IEP or annual review
 - Provide provider district with:
 - A copy of the signed IEP
 - Assessment data supporting a change in placement (observations, academic progress monitoring, behavioral intervention data, FBA, private evaluations)
 - Teacher reports, related specialist reports
 - Health evaluations and immunization records
 - Transcripts for students in grades 9-12, state testing results
 - Other agency reports
 - Home Language Survey and CELDT test results, if applicable
 - History of counseling services, if applicable.

Provider district to:

- Describe class being considered for placement
 - Provide enrollment packet for parents if program selected
 - Arrange for observation of program if requested
6. If a provider county/district program is agreed to, and upon receipt of parent enrollment packet, transportation will be arranged and a student file will be provided to the receiving teacher before the student's start date.

See Chapter 15 for information regarding referrals for Non-Public Agency and Non-Public School consideration.

If the parent or district continues to disagree and requests a due process hearing, specific procedures as outlined in Section C of this chapter must be followed.

Section C – Due Process Procedures Frequently Asked Questions

OAH Form 65; Rev.6/05 **SPECIAL EDUCATION DUE PROCESS HEARINGS**

CHAPTER 7 PROCEDURAL SAFEGUARDS

PROCEDURAL SAFEGUARDS

DUE PROCESS HEARING RIGHTS INCLUDE THE FOLLOWING:

1. The right to request a mediation conference at any point during the hearing process. The mediation process is not to be used to deny or delay a parent(s) or guardian(s) right to a due process hearing, or to deny any other rights afforded to parties. Attorneys and advocates are permitted to participate in mediation conferences scheduled after the filing of a request for due process hearing. (20 U.S.C. § 1415(e) (1); 34 C.F.R. § 300.506; Ed. Code § 56501, subd. (b)(2).)
2. The parent has the right to examine all school records of the child, and to receive copies of the records within five days of an oral or written request by the parent. A public educational agency may charge no more than the actual cost of reproducing the records, but if the cost effectively prevents the parent from exercising this right, then the parent is entitled to receive a copy or copies at no cost. (20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.501(a)(1)(i); Ed. Code § 56501, subd. (b)(3).)
3. The parents' right to have the pupil who is the subject of the state hearing present at the hearing. (34 C.F.R. § 300.509(c)(1)(i); Ed. Code § 56501, subd. (c)(1).)
4. The parents' right to open the state hearing to the public. (34 C.F.R. § 300.509(c)(1)(ii); Ed. Code § 56501, subd. (c)(2).)
5. The parents' right to an interpreter at no cost if their primary language or mode of communication is other than English. (20 U.S.C. § 1415 (b)(4); 34 C.F.R. § 300.501(c)(5).)

MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT (STAY PUT)

A child shall remain in his/her current educational placement "stay put" while due process hearing proceedings are pending, unless the parents and the State or local educational agency, agree to a different placement. This provision is subject to certain exceptions in disciplinary matters involving the child. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.514; Ed. Code § 56505 subd. (d).)

RESOLUTION SESSION

Prior to the setting or conduct of any due process hearing, and within 15 days of receiving notice of the complaint, the public educational agency shall convene a resolution meeting. The meeting shall include the parent(s), a public educational agency representative, and relevant member(s) of the IEP team who have specific knowledge of the facts of the complaint. The purpose of the meeting is to provide an opportunity for the parent(s) to discuss their complaint and its factual basis, and to provide the public educational agency an opportunity to resolve the complaint. If the complaint is unresolved 30 days after its receipt by the public educational agency, a due process hearing may be held and the applicable timelines shall begin. (20 U.S.C. § 1415(f)(1)(B)(i-iv).)

The resolution session may be waived only under two circumstances; (1) a written waiver signed by the parent(s) and public educational agency representative, or (2) agreement by the parties to participate in mediation. (20 U.S.C. § 1415(f)(1)(B)(i)(IV).)

CONDUCT OF THE HEARING AND RIGHTS OF PARTIES AT HEARING:

1. The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil. (Ed. Code § 56505, subd. (b).)
2. All parties to the hearing have the following rights consistent with state and federal statutes and regulations:
 - A. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of children with disabilities. (20 U.S.C. § 1415(h)(1); 34 C.F.R. § 300.509(a)(1); Ed. Code § 56505, subd. (e)(1).)

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- B. The right to present evidence, as well as written and oral argument. (20 U.S.C. § 1415(h)(2); 34 C.F.R. § 300.509(a)(3).)
- C. The right to confront, cross-examine, and compel the attendance of, witnesses. (20 U.S.C. § 1415(h)(2); 34 C.F.R. § 300.509(a)(2); Ed. Code § 56505, subd. (e)(3).)
- D. At their option, parent(s) or guardian(s) have the right to receive a written or electronic verbatim record of the proceeding at no cost to the parent or guardian. (20 U.S.C. § 1415(h)(3); 34 C.F.R. § 300.509(a)(4); Ed. Code § 56505, subd. (e)(4).)
- E. At their option, parent(s) or guardian(s) have the right to receive the written or electronic findings of fact and decision, at no cost to the parent(s) or guardian(s). The findings and decision shall be made available to the public after any personally identifiable information has been deleted consistent with confidentiality requirements. (20 U.S.C. § 1415(h)(4)(A); Ed. Code § 56505, subd. (e)(5); 34 C.F.R. § 300.509(a)(5).)
- F. The right to receive from the other parties, **at least five (5) business days prior to the hearing**, a copy of all documents and a list of all witnesses and their general area of testimony, which the parties intend to present at the hearing. This shall include all assessments completed by that date and any recommendations based on those assessments that the parties intend to use at the hearing. (20 U.S.C. § 1415(f)(2)(A); 34 C.F.R. § 300.509(b)(1); Ed. Code § 56505, subd. (e)(7).)
- G. The right to prohibit the introduction of any evidence at the hearing not disclosed **at least five (5) business days prior to the hearing**. (20 U.S.C. § 1415(f)(2)(B); 34 C.F.R. § 300.509(a)(3); Ed. Code § 56501, subd. (f).)

REPRESENTATION AT DUE PROCESS HEARING

If either party to a due process hearing intends to be represented by an attorney at the state hearing, notice of that intent shall be given to the other party at **least ten (10) calendar days prior to the hearing**. Failure to provide the required notice shall constitute good cause to grant a continuance. (Ed. Code § 56507, subd. (a).)

WRITTEN DECISION UPON COMPLETION OF HEARING

Upon completion of the due process hearing, the Administrative Law Judge shall prepare a written, reasoned decision. The decision shall include reason(s) for any nonpublic school placement or agency services or reimbursement for any nonpublic school placement or agency services. The decision shall be mailed to all parties to the hearing within 45 days from the receipt of the request for a hearing. (20 U.S.C. § 1415(g)(2); 34 C.F.R. § 300.511(a).)

Either party to a hearing may request an extension from the Administrative Law Judge, which request shall be granted upon a showing of good cause. Any extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension. (34 C.F.R. § 300.511(c).)

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Special Education FAQs: IDEA/Due Process Hearings Before the Office of Administrative Hearings Special Education Division

SETTING DUE PROCESS HEARINGS

Where do parties send requests for due process hearings?

OAH, Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833. This information is also on the [OAH website](#).

How do parties receive the request for due process hearing from the filing party, as well as other communications sent to OAH?

By both state and federal law, it is the parties' responsibility to serve all documents filed with OAH on the other parties. A party who files a request for due process hearing is responsible for delivering or serving the request on all other named parties, as well as sending a copy to OAH for filing. The request sent to OAH should include some form of confirmation that all other parties have received the request. Parties represented by an attorney are expected to provide a proof of service.

At what stage of the proceedings are hearing dates scheduled?

It depends on which party is requesting the due process hearing. If a parent is requesting the due process hearing (other than an expedited hearing and absent a written waiver of the required resolution session signed by both sides), OAH will not set the matter for hearing until the expiration of the 30 days for the resolution session. At that point, if the matter has not resolved, OAH will set a hearing date approximately 20 to 25 days out to provide sufficient time to conduct a hearing and issue a decision within the 45-day time period.

When a school district is requesting a hearing date, OAH will almost immediately set the hearing date approximately 20 to 25 days out, as no resolution session is required.

In both scenarios, OAH will typically set the initial hearing date for one day only, because of the high percentage of cases which are continued during mediation. If mediation is unsuccessful, OAH will generally consult with the parties to determine a reasonable estimate of the number of days necessary to hear the matter and the availability of the parties and legal counsel.

Should the parties advise OAH if the resolution session is unsuccessful, so as to initiate the scheduling of a hearing date?

Yes. However, if no communication is received, OAH will assume that the resolution session was unsuccessful and will set the matter for hearing. This is necessary because the 45-day time period begins to run at the end of the 30 days provided for the resolution session.

Do the parties have to wait 30 days before notifying OAH that they can't resolve issues in a resolution session and therefore need to proceed to hearing?

Yes, ordinarily. However, if the parties have reached impasse prior to expiration of the 30-day period and submit to OAH a written statement to that effect signed and dated by both sides, the matter will proceed to hearing. OAH will not set the matter for hearing based on one party's assertion that the parties are at impasse. The parties may also jointly agree to waive the resolution session and communicate that in a dated, signed statement. OAH will then set the hearing date and refer the matter to mediation.

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Should the parties advise OAH if the mediation is unsuccessful?

Yes. If the parties do not resolve the matter through mediation, the parties should notify OAH that the matter was not resolved through mediation, and the hearing date can be set or reset as necessary.

What timeline for scheduling hearings will OAH follow once they receive notification that the resolution solution has not been successful?

OAH follows all timelines specified in the IDEA. As noted above, if a parent filed the request for a due process hearing, the 45-day period begins to run with the expiration of the 30 days allowed for the resolution session. If the District filed the request, the time period begins to run almost immediately.

How will expedited hearings be handled?

Expedited hearings will be handled in accordance with applicable provisions of law. Please note that the 20 days in which to hold a hearing and the 10 days in which to issue a decision thereafter are school days.

How and when will the parties be advised that a hearing date has been scheduled?

OAH will mail a notice of the hearing date to parties (or designated legal counsel or lay advocate) when the matter has been set or reset for hearing.

When and where will the due process hearings be scheduled?

When: Hearings are scheduled on any regular business day, depending on the availability of an ALJ. The starting time will depend on the location and the time that will be required for the ALJ to travel to the hearing site. If the travel time is not excessive, the hearing will likely begin at 9:00 a.m.

Where: Typically, unless the parties agree otherwise, the hearings are set at school district sites.

Will OAH send copies of notices of due process hearings to a particular law firm for a school district upon receipt of written notice to do so?

Typically, OAH will notify the District's chosen representative provided OAH has been notified of the representation. If no notice of representation has been filed, OAH will serve the notice of due process hearing to the school district named in the filing.

What is the OAH policy regarding scheduling more than one hearing on the same day for an attorney or school district?

In large school districts with many pending requests for hearing, OAH may initially set multiple matters for hearing on the same day. Generally, districts with multiple requests for hearings are expected to have an adequate number of attorneys available to handle the caseload. Experience has shown that most of these matters will be resolved in mediation. However, when cases are continued and reset, there is a greater likelihood the hearing will take place. Thus, OAH will attempt to avoid resetting multiple hearings involving the same school district or attorney on the same dates. However, this may not be feasible for large school districts that have multiple requests for hearings.

CONTINUANCES

Are parties permitted to stipulate to continuances?

No. By law, the party or parties seeking a continuance must establish good cause. A stipulation by the parties is not a substitute for the requisite showing of good cause; however, the fact that the parties jointly request a continuance will be considered in the assessment of good cause.

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Are parties permitted to stipulate to specific hearing dates as part of a continuance?

No. The parties may not stipulate to a date, however, OAH will consider the parties' preferences in resetting the matter.

May matters be taken off calendar if the parties agree?

No. OAH maintains control of the calendar. When a request for continuance is granted, OAH will always set another date for some further proceeding in the case.

PLEADING REQUIREMENTS

What are OAH pleading requirements? Must all motions and requests be on pleading paper or is a letter acceptable in some circumstances?

Pleading requirements are described in OAH Regulations, specifically CCR, title 1, sections 1006 and 1022, which regulate format and filing of papers and motions. (Pro per parties will be given some latitude, in that their filings need not rigidly conform to the requirements of these sections. Less latitude will be given to attorneys and/or experienced advocates, who are expected to adhere to the statutes and regulations governing their profession.)

What is the OAH standard in determining whether a complaint is sufficient pursuant to 20 U.S.C. sections 1415(b)(7)(A) and (B) and (c)(2)(C)?

The standards are the same as those articulated in the provisions of the IDEA cited. In addition to the name of the child, his or her address, and the school attended, the request must include a description of the problem, the facts relating to the problem and a proposed resolution for each problem alleged.

Please do not phrase problems ("complaint" in the IDEA) as "issues"; rather, list contentions or allegations as such. For example, if a parent is requesting a due process hearing and the perceived problem is the alleged failure of a school district to assess ("evaluate" in the IDEA) in an area of suspected disability, do not phrase the "issue" as: "Whether the district assessed in all areas of suspected disability." Rather, include in your contention the areas(s) of suspected disability allegedly known by the district and the assessments that you contend that the district failed to undertake.

When deadlines fall on a weekend or holiday, when will OAH expect the document to be served?

When deadlines fall on a weekend or holiday, the deadline is extended to the following business day.

By what time of day must documents be filed with OAH?

Between 8:00 a.m. and 5:00 p.m., on regular business days. OAH accepts documents delivered by mail, personal delivery, facsimile (FAX), and, in some cases, email. Usually, documents will be filed on the day received. However, documents received by FAX or, in some cases, e-mail, after 5:00 p.m., or outside of regular business hours, will be filed on the next business day. (CCR, title 1, section 1006, subd. (h)).

What forms should parties use?

Parties should use the forms available on the California Department of Education (CDE) website and/or the OAH website. (CDE determines the content of the request form for hearing and mediation.)

Due Process Hearing Request Form: www.documents.dgs.ca.gov/dgs/fmc/dgs/oah038.pdf

Request Mediation Only Form: www.documents.dgs.ca.gov/oah/SE/Forms/OAH%2063.pdf

Links to these forms are available on the [OAH website](#), in the Special Education section.

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CONFERENCES PRIOR TO HEARING

What occurs at the status conferences, trial-setting conferences, and pre-hearing conferences?

Generally, a trial-setting conference is conducted to obtain a time estimate for the hearing and to schedule hearing dates, pretrial motions, prehearing conferences, settlement conferences and status conferences. Any other matter which may be resolved at the time may be discussed and resolved.

A status conference may be scheduled to follow up on specific issues, such as progress on settlement or stipulations.

A pre-hearing conference may deal with the same topics as status and trial setting conferences. However, the focus of the pre-hearing conference is to ensure that the parties will be ready to proceed at the hearing. Motions may be brought and resolved, exhibit and witness lists are generally exchanged, and other expediting measures are taken. Pre-hearing conferences will not be set for all cases. They will generally be set for longer running cases and where there are legal and procedural issues which are appropriate to dispose of prior to the hearing. The Presiding Administrative Law Judge will determine whether a pre-hearing conference is appropriate and the timing thereof.

Which conferences are held telephonically?

Some conferences are conducted by telephone conference call. Several factors are taken into consideration in setting a conference telephonically. Some of these factors are calendar commitments and the travel time and distance for the parties, counsel and the ALJ.

Are the telephonic conferences recorded?

That depends; if only routine issues are discussed and resolved, there is generally no need for testimony or the recording of oral argument. If a significant legal issue is to be argued or evidence received in the form of oral testimony, that part of the pre-hearing conference will likely be recorded to provide a record for judicial review.

MOTIONS

Are pre-hearing motions assigned to the ALJ handling the case?

It depends on the timing of the motion. OAH has centralized special education case filing in Sacramento. Cases are transferred to a regional office close to the time of the scheduled hearing date.

Most motions filed before the transfer of the file to a regional office will be handled by the Presiding Administrative Law Judge of the Sacramento office or his designee. Motions filed after the file transfer may be handled by the regional Presiding Administrative Law Judge, his or her designee, or by the Administrative Law Judge assigned to hear the matter.

If motions are filed in Sacramento after the file transfer, the motion will be transferred by OAH to the appropriate office.

What types of motions will OAH consider (continuance, dismissal, motion for summary adjudication, consolidation, bifurcation or joinder)?

OAH will consider any motion over which it has apparent jurisdiction, including all of the cited examples.

What types of requests do not require a motion?

Most requests should be in the form of a motion. Some requests, such as a request for an interpreter, need not be.

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What are the deadlines to respond, reply and rule on motions (briefing schedule)?

These will depend on the nature of the motion, the urgency with which the matter must be decided, and the proximity to the hearing date. OAH will, when appropriate, provide deadlines for response. Parties should refer to CCR, title 1, sections 1022 and 1026. OAH prefers an expeditious response by the party opponent without OAH prompting. No deadlines for rulings exist except where provided by law.

Does OAH request oral arguments on a motion?

The ALJ deciding the motion has the discretion whether to request oral argument on a motion. The ALJ may also seek declarations/affidavits where factual contentions must be addressed in order to rule upon a motion.

Before OAH rules on a motion, will OAH ensure that all parties get a copy of the motion and an opportunity to respond orally and/or in writing?

With the exception of those matters permitting ex parte motions, OAH will endeavor to ensure that the party opponent has been served and has an opportunity to respond either verbally or in writing. Generally, OAH will rely on proof of service documents attached to the proponent's motion.

CONDUCT OF HEARINGS

Are the hearings recorded?

Yes, currently, the hearings are recorded by digital recording systems loaded as software into laptops with sound mixer and microphones.

May a party request a court reporter and who arranges it?

Yes. The parties, with the permission of the ALJ, may agree to use a certified shorthand reporter (court reporter) at their own expense to produce the official record. If a court reporter is used, the court reporter shall comply only with the directions of the assigned ALJ during the hearing.

Parties who agree to use a court reporter at their own expense must contact the OAH calendaring department to make arrangements for retaining a court reporter. If the parties do not request a court reporter, the record provided by the OAH electronic recording device will be the exclusive record upon appeal.

May a party request that security be present at either the mediation or the due process hearing?

Yes. See CCR title 1, section 1019.

Who requests and makes arrangements for an interpreter?

A party who requires an interpreter makes the request to OAH. Upon request, OAH will arrange for the presence of the interpreter.

How does OAH handle in pro per proceedings? Does OAH provide any special assistance to parents representing themselves?

The ALJ will do his or her best to help the pro per litigant comprehend the proceedings, beginning with an explanation of the rights accorded pro per parties and answering any questions posed by the pro per litigant about the hearing process. However, the ALJ may not act as an advocate for the pro per party.

OAH has many years of experience presiding over matters in which one or more of the parties appear in proper.

Does OAH set time limits for hearings?

OAH will, in consultation with the parties, attempt to determine a reasonable number of days necessary to complete the presentation of evidence. OAH will typically "reserve" that number of days on the calendar for

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the case and notice the hearing accordingly. If the hearing does not conclude in the days allotted, normally the parties and the ALJ will obtain the necessary additional hearing days to complete the matter.

Does OAH set time limits for witness testimony?

OAH has not historically limited time for the presentation of evidence. However, ALJs have the power to do so in any particular case in the exercise of their discretion.

What can the parties expect to happen at the first day of a due process hearing?

The ALJ will address any preliminary motions and issues, invite opening statements, and begin the process of receiving evidence. Parties must appear at the hearing prepared to proceed with the hearing. Parties should not assume the first day of hearing (or any significant portion of the day) will be spent in settlement discussions.

Is telephonic testimony permitted?

Yes, telephonic testimony is permitted under the California Education Code at the discretion of the assigned ALJ.

Are the technical rules of evidence followed in hearings?

No. CCR, title 5, sections 3082, subdivision (b) and 3089, apply. These regulations generally incorporate the APA rules of evidence found in California Government Code section 11513.

Are closing briefs accepted?

Yes, if the assigned ALJ, in consultation with parties and counsel, determines that closing briefs are appropriate in a particular case.

DECISIONS

Does OAH use a format for writing decisions?

Yes. The general OAH format for decisions includes identification of parties, hearing dates and location(s) and other preliminary information. This will typically be followed by a statement of the issue(s) presented; factual findings; legal conclusions, and the order.

What is the timeframe for issuing decisions after the hearings?

Unless timelines are waived by the parties, OAH will endeavor to meet the timelines within applicable federal and state law.

Does OAH abide by the 45-day timeline in which to issue a decision following a hearing?

Forty-five days is the deadline to complete the hearing process. Absent a waiver by the parties, OAH will comply with the timelines of the IDEA and implementing federal regulations for issuance of decisions.

What precedential value will OAH give to SEHO decisions and to its own decisions?

OAH will follow California Code of Regulations, title 5, section 3085, which characterizes prior decisions (by SEHO or OAH) as "persuasive, but not binding authority."

Will OAH post its decisions on a website? Will the decisions be published? Will OAH send the decisions to a publisher such as LRP and allow them to publish the decisions?

The decisions, after redaction of confidential information, will be sent to the CDE, which will continue to post them on its website. OAH will not independently publish decisions. OAH intends to discuss with LRP the logistics and propriety of including decisions on the LRP website.

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RESOLUTION SESSIONS

What is the process for notification of the resolution session? How will meetings be scheduled after notification?

The obligation for convening the resolution session and assembling the required participants falls on the school district. It is not clear that OAH has any responsibility for resolving disputes which arise in the course of the resolution session. OAH's responsibility is limited to ruling on motions that relate generally to the matter and processing of the case if no resolution is reached within the 30 days.

If parents don't want to attend the resolution session, can a district move to have the request for hearing dismissed? (The statute states that parties "may proceed" to hearing if no resolution has been reached.)

No. As noted above, both parties may waive the resolution session or opt to go to mediation. The agreement must be signed by both (or all) parties.

Does OAH expect the parties to notify OAH of the outcome of the resolution session?

OAH does not expect to be notified of the outcome of the resolution session other than whether there was or was not a resolution. If the parties do not notify OAH that the matter was resolved, OAH will assume after 30 days that the case was not resolved and will set the matter for hearing and refer it to OAH for mediation.

Does the resolution session have to include the entire IEP team? (The statute says it has to include the IEP team.)

This is covered in IDEA, which does not, as suggested by the question, require the entire IEP team. The IDEA requires participation by "relevant" IEP members who have knowledge of the complaint.

How does OAH interpret the phrase "relevant members of the IEP team" as it relates to the resolution session?

The phrase "relevant members of the IEP team" will be interpreted by the assigned ALJ in the context of any case in which this becomes an issue. However, OAH will not typically become involved in issues which relate exclusively to the conduct of the resolution session.

MEDIATIONS

How are mediations currently scheduled?

After receiving a request for mediation or a request for mediation and hearing, OAH will schedule and notify all parties on record dates set for mediation.

How are mediation dates selected?

Mediators schedule the dates of mediation with the parties.

How will the parties be advised that a mediator has been assigned to the case?

OAH will notify all parties and including the mediator's name and resume in the hearing notice.

Will the mediations have to be held during the 30-day period for the resolution session?

No. If the school district files the due process hearing request, a hearing date will be noticed and the parties notified of the name mediator who will contact them. The OAH mediator will schedule the mediation.

If a parent files the due process hearing request, OAH will wait the requisite 30 days to notice the matter for hearing and notify the parties of the name of the mediator. Mediations will not be held during the 30 days

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allocated for a resolution session. The parties can opt to proceed to mediation by joint agreement or may jointly agree to waive the resolution session in writing.

How does OAH ensure that the same ALJ does not mediate a case and then hear a case involving the same school district but a different student? For example, on July 1st the ALJ mediates a case involving student 1 and school district A and on August 1st hears a case involving student 2 and school district A.

There is no legal or ethical impediment to this practice. Civil courts, arbitrators, and dispute resolution services follow this practice. In some of the larger school districts, ALJs will regularly mediate and hear cases involving the school district. ALJs, of course, will not hear cases they have mediated.

SUBSTANTIVE LEGAL ISSUES

How does OAH deal with the current differences between IDEA as amended in 2004, the federal regulations, and state law?

OAH follows case law regarding the relative precedence of federal law, state law and state regulations whenever a conflict exists.

Will there be consistency in terms of rulings and procedures within each Regional Office and among the Regional Offices?

OAH will endeavor to provide a generally consistent hearing process among all of the regional offices and ALJs. However, each ALJ has an individual responsibility to hear and resolve issues that come before him or her. As is true with any adjudicative body, ALJs may not always agree on the correct manner in which to interpret the law.

What is OAH's position with regard to the applicability of IDEA 2004 for cases filed before July 1, 2005?

As a general matter, while the reauthorized IDEA provisions do not appear to apply retroactively, these kinds of issues will be resolved by Presiding ALJs or assigned ALJs on a case by case basis within the context of matters assigned to them.

MISCELLANEOUS

EX PARTE COMMUNICATIONS

When is it appropriate, if ever, to receive calls from ALJs even to discuss procedural matters? (See CCR, title 5, Section 3084 and California Government Code Section 11430.10.)

These matters are covered in the sections cited. See also Government Code section 11430.20 for permissible communications to the Administrative Law Judge. Generally, communications regarding "issues in the proceeding" are prohibited, although communications concerning "a matter of procedure or practice, including a request for a continuance that is not in controversy" are permitted.

ADMINISTRATIVE LAW JUDGE TRAINING

Is OAH ensuring that the ALJs are properly trained pursuant to Education Code section 56505(c)?

Yes

Chapter 8

SCHOOL-TO-ADULT LIVING

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Introduction

According to IDEA 2004, transition services are a set of coordinated activities for a student that is designed within a results-oriented process, that is focused on improving the academic, and functional achievement of the student to facilitate movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living, or community participation. IDEA requires that transition services be provided to all youth with disabilities beginning at sixteen years of age or younger as appropriate.

The transition services are based on the student's individual needs, taking into account strengths, preferences and interests. They include instruction, related services, community experiences, the development of employment and other post-school adult living objectives and if appropriate, may include daily living skills and a functional vocational evaluation. Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

[34 CFR 300.43 (a)] [20 U.S.C. 1401(34)]

The Individual Transition Plan (ITP) drives the Individual Education Plan (IEP) by clearly defining the desired goals of the student in the areas of Postsecondary Education and or Training, Employment, and Independent Living when appropriate. The purpose is to improve academic and functional achievement to facilitate movement from school to post school activities. Both formal and informal age appropriate transition assessments including student interview, person centered planning and progress monitoring are used to assist in determining the skills, strengths, transition readiness and specific needs of the student. A prescribed course of study, revision of goals, and appropriate transition related activities contribute to a comprehensive and individualized transition plan.

Section A – Transition Planning

According to the Federal Regulations for the implementation of IDEA 2004, beginning not later than the first IEP to be in effect when the child turns 16, or younger, if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

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

[34 CFR 300.320(b) and (c)] [20 U.S.C. 1414 (d)(1)(A)(i)(VIII)]

While age appropriate transition assessments are not defined in the law, The Division of Career Development and Transition, Council for Exceptional Children defines transition assessment as “the ongoing process of collecting data on the individual’s needs, preferences and interests as they relate to the demands of current and future working, educational, living, and personal and social environments”. Transition assessments should assist in identifying the student’s interests, preferences and strengths and provide the information needed to plan an appropriate course of study, identify appropriate post-school outcomes, and document student progress. The assessment process can be informal or formal. Informal assessments include checklists, observations, surveys and review of records. Formal assessments include the use of standardized assessment tools. Whatever process is used, the assessment must provide clear and objective present levels of performance in the areas of education and training, employment and when appropriate

Chapter 8 School-To-Adult Living

independent living skills. The results of the assessment shall be reviewed at the IEP meeting convened prior to the student's 16th birthday.

Measurable postsecondary goals are a new requirement in IDEA 2004. Measurable postsecondary goals are statements of what a student wants to do after school. Measurable postsecondary goals are required in the areas of education and training, employment and when appropriate independent living. Measurable annual goals are then developed that will assist the student in achieving their postsecondary goals. While school districts are not responsible for ensuring the achievement of the student's postsecondary goals, the transition plan should be designed and reasonably calculated to assist the student in meeting their long term postsecondary goals.

For information on transition planning please refer to Transition to Adult Living: An Information and Resource Guide, 2007. This guide is available from CalSTAT and may be downloaded from the CalSTAT publications website: www.calstate.org/info.html.

Section B – Transfer of Rights

When students with disabilities reach the age of majority, age 18, the legal rights for special education services move from the parents to the student. Parents and students are notified one year before the student's 18th birthday of this transfer of rights. §300.520 [see 20 U.S.C. 1415(m)]. If parents or care providers determine that the student is unable to, or incapable of, making decisions about education or independent living, there are two options. A legal guardianship or conservatorship can be established. The legal guardian makes decisions on behalf of the student for medical care, financial management, education, and all other life situations. An alternate option is conservatorship. Conservatorship differs from a legal guardianship in that it may be limited to certain powers as appointed by the court.

A limited conservator may ask the court to grant any or all of the following 7 powers:

1. Determine the conservatee's residence or dwelling
2. Access the conservatee's confidential records or documents
3. Consent or withhold consent to marriage on behalf of the conservatee
4. Enter into contracts on behalf of the conservatee
5. Give or withhold medical consent on behalf of the conservatee
6. Select the conservatee's social and sexual contacts and relationships
7. Make educational decisions for the conservatee

Page 2 of the Individual Transition Plan of the West End SELPA IEP form provides the means for documenting those students have been advised of the transfer of their rights at least one year before they reach the age of majority; age 18.

Section C – Interagency Agreements

EC 56462 *The transition services shall include, but not be limited to the following: (a) (3) the roles of other agencies in the transition process including, but not limited to, the scope of their services, eligibility criteria, and funding. (b) (4) The coordination of the transition planning process, including the development of necessary interagency agreements and procedures at both state and local levels. (g) Coordination with other specialized programs that serve students who face barriers to successful transition.*

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Interagency agreements shall contain a description of the scope of the agency's services, eligibility criteria, and funding. Services will be coordinated to serve students who face a barrier to a successful transition from school to adult living. The case carrier will review student's abilities and challenges and with the consent of the parent or the student if the student has attained the age of majority, will invite appropriate agency representatives to the IEP annual review. The notice to parents and to the students, in cases where the student is 18 or older, shall contain notification of the agency's participation in the IEP meeting. It is clear that the inclusion of agency participation in the student's transition planning should start prior to the last year of the student's high school education.

Interagency access is accomplished through the IEP process. All students have the right to access services offered by the community agencies; however, the school system is not financially responsible for services beyond the scope of the IEP. Methods chosen to accomplish written goals are at the discretion of the education professionals.

Section D – West End SELPA Managed Programs

These programs are not mandated under California Education Code, but are available to students who meet criteria imposed by the funding source or the West End SELPA Program Advisory Committee.

- ✓ **The Transition Partnership Program (TPP)** – This is an interagency contract with the Department of Rehabilitation. Eligible students receive pre-employment transition skills (PETS) training and exploratory work experience. Services are delivered within the TPP classroom and include instruction in career development, employment counseling and preparation, as well as job development and placements. Students may be referred to the program in their sophomore year through the beginning of their senior year if they are demonstrating school success in the areas of behavior and responsibility, while at the same time, receiving special education services. Students need to complete a TPP application packet that is available from their case carrier and provide proof of disability with a current psychological report or medical records. The West End SELPA enters into a contractual agreement with the Department of Rehabilitation on an annual basis to provide these services to the high school member districts.
- ✓ **WorkAbility I** - The West End SELPA applies annually to the California Department of Education for funding for this vocational service. All high schools in the SELPA are eligible to submit student applications for this program. The scope of the program ranges from pre-employment transition skills training and work experience services through initial job placement and payment of wages. WorkAbility I is a statewide grant funded program that encourages students with disabilities ages 16-22 to complete high school and supports them in acquiring marketable job skills. It is a program supported by the State of California and sustained by the community's partnering employers. WorkAbility I pays the student's wages, provides Worker's Compensation for a specified training period, provides employers with an opportunity to evaluate potential employees via a trial work period, and encourages employers to hire students who are prepared to work.

A student may access the WorkAbility I program by requesting a WorkAbility I application from the special education case carrier or SELPA Transition Case Technician during a WorkAbility I presentation. This application must be completed as requested, and the student will then be scheduled for an interview with the WorkAbility I Transition Case Technician. Following the interview, a decision will be made concerning the student's readiness for job placement. Collaborative efforts between the teacher, career center personnel, WorkAbility I staff, and parents prepare the student for employment. Preparation includes pre-employment skills, job-seeking skills, job attainment, and retention of employment.

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When a special education student is 16-22 years of age, he/she may apply for a WorkAbility I position if the student:

- Can be responsible for transportation to and from the job site.
 - Maintains satisfactory attendance and classroom achievement.
 - Is responsible, reliable, and honest.
 - For additional information see Appendix B
- ✓ **WorkAbility Middle School Project** - This program is part of the WorkAbility I grant project. It is a program designed to meet the needs of students in grades 6-8. It is also supported by the California Department of Education. The goal of this project is to empower middle school students to create a personal vision and to prepare them to enter high school with academic skills, social skills, and career awareness information that will allow them to make informed decisions regarding their future as it relates to their high school course of study, and future areas of transition into adult life. These goals will be accomplished by cooperative work between the WorkAbility I staff and teachers to engage middle school students in a variety of classroom activities and community experiences, including secondary education and transition planning based on career and vocational interest inventories.
- ✓ **Work Projects** – This program is part of the WorkAbility I grant project. The program involves partnering with local businesses to supply students with severe disabilities with work projects that can be completed in the classroom to enhance the school curriculum. The goals are to enhance the student's time on task and develop the social and work behaviors necessary to be a successful employee. All high school students with moderate to severe handicapping conditions are eligible to participate in the Work Projects Program if the work complements their curriculum and meets the goals set forth in their IEP. The student's teacher must decide if this experience aligns with the curriculum set forth by the district and used in the classroom. The teacher then contacts the transition Case Technician assigned to that school to develop an appropriate work project appropriate. In the case of damage, loss, or theft the teacher is responsible for the value of the materials provided by Work Projects' staff.
- ✓ **CaPROMISE** – Promoting the Readiness of Minors in Supplemental Security Income (PROMISE) is a joint initiative between the U.S. Department of Education, the U.S. Social Security Administration, the U.S. Department of Health and Human Services, and the U.S. Department of Labor to promote positive outcomes for children who receive Supplemental Security Income (SSI) and their families.

The grant is a 5-year demonstration grant, scheduled to end on September 30, 2018. The purpose of the program is to improve the provision and coordination of services and supports for child SSI recipients and their families in order to achieve improved outcomes, such as completing postsecondary education and job training to obtain competitive employment in an integrated setting that may result in long-term reductions in the child recipient's reliance on SSI. The CaPROMISE grant is focused on supporting one of the key provisions of the Workforce Innovation and Opportunity Act (WIOA) enacted on July 22, 2014, which is to strengthen the Department of Rehabilitation focus on Competitive Integrated Employment (CIE). Participants were chosen via random selection from an eligibility list uploaded to a secure database by the Social Security Administration. Staff authorized to access this database must undergo a federal security background check for clearance.

Expected Outcomes for the Youth and Their Families:

- Increased education attainment in high school, postsecondary education and/or training
- Increased access to community services based on individual need
- Improved employment outcomes for youth and family members

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- Increased exploration, understanding and utilization of SSA work incentives
- Improved understanding of financial and benefits planning
- Post-program reduction in SSI payments

Interventions:

- Case Management and Transition Services
- Financial Planning and Benefits Management Services
- Career and Work-based Learning Services
- Parent and Guardian Training and Information Services
- Other Support and Services

APPENDIX A

QUICK REFERENCE ARRAY OF WORKABILITY I (WAI) SERVICES

Source: <https://sites.google.com/a/workabilitycentral.com/workability-1/high-school-array-of-services>

WESELPA

West End Special Education Local Plan Area

WorkAbility I

Matrix – Array of Services Quick Reference

Please use this as a quick reference for explanation of services on the matrix form. The matrix form is available upon request from the WESELPA WorkAbility Office.

SCHOOL-BASED COMPONENT

The integration of school-based and work-based learning is identified as a best practice for transition (National Transition Standards, Office of Disability Employment Policy, High School Reform and the newly reauthorized Carl Perkins Career and Technology Act). This incorporates common core, academic and occupational learning and links elementary schools, middle schools, high schools and postsecondary education.

The School-Based component refers to those elements that are commonly part of the school curriculum and the education delivery system. The following elements are included:

Career/Vocational Assessment: Assessments that evaluate the student's interests, skills and abilities. The results are utilized to assist students to choose a satisfying, lasting career and to evaluate transition needs.

Types of assessments include:

- ✓ Self-Assessment: a self-inventory that requires students to reflect on their personal traits, skills, interests and aptitudes to identify their natural talents and abilities.
- ✓ Formal Assessments are typically in one of five categories:
 - Aptitude / Ability Tests- measure overall abilities, general intelligence, achievement, aptitude.

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- Interest Inventories- help individuals identify their preferences for a particular activity.
- Personality Surveys- match types of interests to the Holland Code (Self Directed Search) or Myers Briggs.
- Values Assessments- assist individuals to identify characteristics of occupations of value to them.
- Career Development Assessments- determine where a person is in the career development process.
- ✓ Informal Assessments: card sorts, interviews, individual and group discussion, job shadow, and situational assessments.
- ✓ Computerized Information Systems: match data assessment, data for research, and exploration.
- ✓ Special Vocational Assessment: may include a diagnostic process to identify learning styles, vocational interests, skills, talents and aptitudes, and/or the student's need for accommodation.
- ✓ Monitoring progress and attainment of employment goals

Employment/ Post-Secondary Education Planning: services that guide students through a process to make and implement educational and occupational plans based on informed choices; services should assist students in exploring career options with attention to surmounting gender, race, ethnic, disability, language or socioeconomic impediments to career options and encourage nontraditional career choices when appropriate. Services may be delivered individually or through group or class activities. The National Career Development Guidelines (NCDG) and National School Counseling Standards provide an extensive list of age and grade appropriate competencies.

Youth Development and Leadership: Training to assist students to understand their rights and responsibilities, express themselves and their ideas, state their needs, and know where to go for assistance and support (self-advocacy skills). Disability awareness, awareness of learning styles and needed accommodations are encompassed in youth development and leadership.

Curriculum Integration of Work Readiness Skills: Academic and work readiness skills (as reflected in the SCANS Competencies and Common Core) are taught in a manner that emphasizes the relationship and application of skills in the workplace. Documentation of these skills may include:

- ✓ **Career/Transition Portfolio:** A collection of a student's transition related documents and assessment results. An age appropriate Career or Transition Portfolio may contain:
 - Personal information
 - Academic information (transcripts, awards, etc.)
 - Exhibits of personal accomplishments
 - Career assessment information (e.g. interest, aptitude, values, learning styles and/or personality survey assessment results)
 - Career exploration results
 - Documentation of career technical skills
 - Work related documents (e.g. resume, master job application, list of references, letters of recommendation, and copies of important documents like driver's license, certificates, etc.)
 - The student's IEP/ITP, dreams and goals, and/or career plan

Career/ Vocational Education: General Education classes that provide introduction to job skills in the areas of agriculture, business, home economics, industrial technology, and health care. Regional Occupational Programs/ Career Technical Education that provide students occupational training and

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certification in entry level positions through a community classroom model or school-based classes. A collaboration of these options help to enhance college and career readiness.

Independent Living/Functional Skills: Activities and curriculum that teach the use of community resources and help develop domestic skills, money management skills and other skills required for independent living.

CONNECTING ACTIVITIES

Connecting Activities are programs and services that help link school and work based learning opportunities.

Partnership/Collaboration: Cooperative relationships with entities within the school system or in the community that provide students work readiness and life skills and/or assist in their transition from school to life after high school. The following are included:

- Interdisciplinary- collaboration between departments, services and programs within a school
- Interagency- partnerships/collaboration with agencies that provide support for student transitions
- Community- facilitating access to community resources for students
- Business- partnerships with business community members who provide career resources for youth, serve as advisors and offer employment and training opportunities for youth

Family Participation/Support of Transition: Involves and recognizes the role of the family as essential to assisting students to become economically self-sufficient individuals.

- WorkAbility I requires that parents provide support for their children to be involved in work based learning opportunities and permission for student involvement in off campus opportunities and/or work experience. WorkAbility I encourages parental involvement and recognizes the role of the family as essential to assisting students to become economically self-sufficient individuals.

CAREER PREPARATION AND WORK BASED LEARNING COMPONENT

Activities and learning experiences to increase career awareness, provide students with work-readiness skills and connect the classroom to work. Work Based Learning Component includes activities that involve actual worksite learning experiences or connect classroom learning to work. All community-based placements (paid and unpaid) are in compliance with the Fair Labor Standards Act (FLSA). Key elements of this component include:

Career Awareness Activities: On and/or off-campus activities designed to make students aware of the broad range of careers and/or occupations in the world of work. These activities are typically occasional experiences that may include field trips, guest speakers, career fairs, conducting interviews with employees and/or employers and career research using career information, internet and/or computer information systems.

Career Exploration Activities: Activities designed to provide more in-depth exposure to career options for students. They are of longer duration (2 hours to one semester). These activities may include:

- Job Shadows: A student follows an employee at a worksite to learn about a particular occupation of interest. The activity is designed to assist the student to explore a range of career/occupational choices and to select a career/occupational goal as they advance into the latter part of high school.

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- **School-Based Project/Business:** An enterprise in which goods or services are produced by students as part of their school program. Project-Based Learning is a type of school based project that provides an opportunity for students to tackle a “real world” problem and identify potential solutions by applying academic skills, social skills, life skills and problem-solving and creative thinking skills.
- **Service Learning:** a method of instruction that combines community service with a structured school-based opportunity for reflection about that service, emphasizing the connections between service experiences and academic learning. Most programs are balanced between students’ needs to learn and the recipients need for service. Students benefit from acquiring skills and knowledge, and learning civic responsibility.

Work Based Learning: Includes activities that involve actual work site learning experiences or connect classroom learning to work. All community-based placements (paid and unpaid) are in compliance with the Fair Labor Standards Act (FLSA).

- **Internship:** provides students an opportunity to participate in unpaid, work based learning for a specified period of time to learn about a particular industry or occupation. In most internship situations, a workplace mentor instructs the student, critiques the performance, challenges and encourages the student to do well. It is critical to ensure that all aspects of criteria outlined by the FLSA are met to ensure that this experience is a work-based learning experience – not employment.
- **Apprenticeship:** Youth apprenticeship programs are formal, multi-year programs that combine school and work based learning in a specific occupational area or cluster and are designed to lead directly into either a postsecondary program, entry level job or registered apprenticeship program. Most apprenticeship programs are developed in collaboration with the State Apprenticeship Standards Board.
- **Community Classroom:** a method of instruction which utilizes unpaid on-the-job training experiences at business, industry, or public agency sites to assist students in acquiring those competencies needed to acquire entry level employment. The intent of the community classroom experience is to augment classroom instruction that can be extended into the community. It is most typically associated with ROP. It is critical to ensure that all aspects of criteria outlined by the FLSA are met to ensure that this experience is a work-based learning experience – not employment.
- **Community Based Vocational Instruction:** the development of learning experiences in the community through WorkAbility and in compliance with all FLSA requirements for a work-based learning experience.

FLSA Requirements for Unpaid Training:

- a comprehensive training plan
- activity involving the performance of work
- planned, sequential learning occurs, resulting in skills documentation
- youth are exposed to all aspects of the industry
- placement provides challenging real or simulated tasks

Career Preparation/ Job Search: Community based activities that provide the opportunity to develop work readiness skills and career-related technical skills. These activities may include:

- **Preparation for the Worksite:** Activities that develop awareness of employer requirements in a specific work based learning opportunity and/or work experience placement in the

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areas of duties to be performed, appropriate attire, work place rules and other expectations.

- **Job Search:** Curriculum and activities that provide students with the needed skills to find a job such as interview skills, use of a portfolio in job search, where to find job listings, how to make use of resources and networking, and how to contact employers.

Job Development and Placement Services: WAI staff develop job training sites in the community or connect students with other placement opportunities. The typical placement process involves contacting employers, developing training plans, securing a training agreement, arranging schedules, and scheduling the student interview and/or orientation. A training plan includes the following elements:

- Clear statement of student hours and wages
- Name of worker's compensation insurance company
- Statement of related goals and interests
- Statement of employment skills addressed in work experience
- Statement of how performance will be evaluated
- Designation of a work site supervisor and a school coordinator/supervisor

Employment/ Work Experience: Provide on the job training experience. Students are productive employees, receiving pay for performing tasks independently. The work experience education component encourages a connection between school and work.

Job Retention: Curriculum and activities that reinforce the skills that a student needs to maintain and/or upgrade a job and the appropriate way to leave a job.

Work Site Mentor: A mentor serves as an advocate and role model for the student. A workplace mentor instructs the student, critiques the performance, challenges and encourages the student to do well and works in consultation with the classroom teacher.

APPENDIX B

West End SELPA

WorkAbility I Policies and Procedures



WEST END SELPA WorkAbility I Policies & Procedures

Mission of WorkAbility I "WAI"

The mission of WorkAbility I (WAI) is to promote the involvement of key stakeholders, including students, families, educators, employers, and other agencies in planning and implementing an array of services that will culminate in successful student transition to employment, lifelong learning and quality adult life.

WorkAbility I Program Information

The WAI program assists all referred secondary students with an active IEP in one of the following ways:

- Prescreening assessment (formal or informal career survey/interest inventory).
- Pre-Employment Transition Skills (PETS) training and presentations.
- Counseling information for post-secondary education or training.
- Subsidized (WAI paid) temporary employment placement and site support, based on grant funding

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- Two-year follow-up after program exit.

WorkAbility I Job Training Referral Process (age 16+)

- Student completes WAI referral packet, available from site Transition Case Technician or special education staff, and obtains necessary parent permission.
- Student returns the completed packet, which includes photocopies of Social Security Card/Permanent Residence Card, photo identification and work permit to the Transition Case Technician
- **Consideration for paid employment is not a guarantee, but a privilege.**

If Considered for Temporary Job Placement, Student:

- Must maintain excellent attendance, behavior, and classroom citizenship/achievement.
- If under age 18, must obtain a work permit from school.
- Must be able to work independently with supervision by an on-site manager and off-site support from Transition Case Technician.
- Must take responsibility for transportation to and from work.
- Will work as scheduled and agreed upon by employer and Transition Case Technician, per state and federal labor laws.
- Must notify the employer and Transition Case Technician when he/she will be absent from work.
- Must notify Transition Case Technician of any change of address or phone number.
- Is responsible for correctly completing and submitting time sheets to Transition Case Technician and signing time card.
- Will be paid once a month for a predetermined number of hours based on available grant funding; check will be issued by San Bernardino County Superintendent of Schools.

WorkAbility I is funded by a grant from the California Department of Education, Special Education Division



APPENDIX C

ON LINE RESOURCES

IDEA 2004

[http://idea.ed.gov/explore/view/pl_root,dynamic,TopicalBrief,17,](http://idea.ed.gov/explore/view/pl_root,dynamic,TopicalBrief,17)

National Center on Secondary Education and Transition

<http://www.ncset.org/>

Transition: CA's School to Adult Life Core Messages

Transition to Adult Life Leadership Team & CDE,
Special Education Division

Each core message is followed by related web sites

<http://www.calstat.org/transitionmessages.html>

[U.S. Department of Education: Carl D. Perkins Career and Technical Education Act](#)

<http://www2.ed.gov/policy/sectech/leg/perkins/index.html>

[WorkAbility Central](https://sites.google.com/a/workabilitycentral.com/workability-1/high-school-array-of-services)

<https://sites.google.com/a/workabilitycentral.com/workability-1/high-school-array-of-services>

[CaPROMISE - Promoting the Readiness of Minors in Supplemental Security Income](https://www.capromise.org/)

<https://www.capromise.org/>

APPENDIX D

OSERS: Office of Special Education and Rehabilitative Services Questions and Answers on Secondary Transition

Source:

idea.ed.gov/object/fileDownload/model/QaCorner/field/PdfFile/primary_key/10

Questions and Answers

On Secondary Transition

Revised September 2011

(New Section B)

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. Additional regulations were published on December 1, 2008 and became effective on December 31, 2008. 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 secondary transition for students with disabilities. 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. This Q&A document supersedes the Department's guidance, entitled: Questions and Answers on Secondary Transition, Revised June, 2009.

The IDEA and its implementing regulations continue to address transition services for children with

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disabilities. Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. See 34 CFR §300.43(b). The term “transition services” means a coordinated set of activities for a child with a disability that: (a) is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and community participation; (b) is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and (c) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. See 20 U.S.C. 1401(34) and 34 CFR §300.43(a).

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>.

If you are interested in commenting on this guidance, please email your comments to OSERSguidancecomments@ed.gov and include Secondary Transition in the subject of your email or write us at the following address: Ruth Ryder, U.S. Department of Education, Potomac Center Plaza, 550 12th Street, SW, room 4108, Washington, DC 20202.

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A. Federal Activities

Authority: The requirements for transition services are found in the regulations at 34 CFR §§300.43 and 300.320(b).

Question A-1: **Are there activities at the Federal level to support secondary transition services?**

Answer: Yes. There are State Performance Plan/Annual Performance Report (SPP/APR) indicators that address secondary transition. In the SPP/APR, a State is required to set measurable and rigorous targets and annually report data on: graduation rates; competitive employment rates; postsecondary school enrollment rates; and percent of eligible IEPs that contain the required secondary transition elements. The Office of Special Education Programs (OSEP) funds three centers to provide technical assistance for the collection and analysis of data for these indicators: the National Secondary Transition Technical Assistance Center (NSTTAC); the National Dropout Prevention Center for Students with Disabilities (NDPC-SD); and the National Post-School Outcomes Center (NPSO). Additionally, OSEP is involved in collaborative activities with other Federal agencies with a focus on improving the academic and functional achievement of students with disabilities. These collaborative activities include the Matrix-Mapping Federal Resources for Technical Assistance and Information Services; the Interagency Committee on Disability Research/Interagency Subcommittee on Employment; the Federal Partners in Transition Workgroup; and the Youth Vision Federal Collaborative Partnership. The agencies involved in these and other activities include the Departments of Education, Labor, Health and Human Services, Transportation, Justice, Housing and Urban Development, and the Equal Employment Opportunity Commission.

B. Individualized Education Program (IEP) Goals for Postsecondary Transition

Authority: The requirements for the content of the IEP related to transition services are found in 34 CFR §300.320(b).

Question B-1: Must an IEP include measurable postsecondary goals in each of the areas of training, education, employment, and independent living skills? Are there any circumstances in which goals for training and education can be combined?

Answer: The Under 34 CFR §300.320(b)(1), the IEP for each child with a disability, must, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. The Department explained in the Analysis of Comments and Changes section of the preamble of the August 2006 final Part B regulations that "...the Act requires a child's IEP to include measurable postsecondary goals in the areas of training,

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education, **and** employment, and, where appropriate, independent living skills. Therefore, the only area in which postsecondary goals are not required in the IEP is in the area of independent living skills.... It is up to the child's IEP Team to determine whether IEP goals related to the development of independent living skills are appropriate and necessary for the child to receive FAPE." [Emphasis added] 71 Fed. Reg. 46668 (Aug. 14, 2006).

Regarding postsecondary goals related to training and education, the IDEA and its implementing regulations do not define the terms "training" and "education." However, the areas of training and education can reasonably be interpreted as overlapping in certain instances. In determining whether postsecondary goals in the areas of training and education overlap, the IEP Team must consider the unique needs of each individual student with a disability, in light of his or her plans after leaving high school. If the IEP Team determines that separate postsecondary goals in the areas of training and education would not result in the need for distinct skills for the student after leaving high school, the IEP Team can combine the training and education goals of the student into one or more postsecondary goals addressing those areas. For example, for a student whose postsecondary goal is teacher certification, any program providing teacher certification would include education as well as training. Similarly, a student with a disability who enrolls in a postsecondary program in engineering would be obtaining both education and occupational training in the program. The same is true for students with disabilities enrolled in programs for doctors, lawyers, accountants, technologists, physical therapists, medical technicians, mechanics, computer programmers, etc. Thus, in some instances, it would be permissible for the IEP to include a combined postsecondary goal or goals in the areas of training and education to address a student's postsecondary plans, if determined appropriate by the IEP Team. This guidance, however, is not intended to prohibit the IEP Team from developing separate postsecondary goals in the areas related to training and education in a student's IEP, if deemed appropriate by the IEP Team, in light of the student's postsecondary plans.

On the other hand, because employment is a distinct activity from the areas related to training and education, each student's IEP must include a separate postsecondary goal in the area of employment

C. Summary of Performance (SOP)

Authority: The requirements for the SOP are found in the regulations at 34 CFR §300.305(e)(3).

Question C-1: What is the purpose of the SOP, "a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals"?

Answer: The purpose of the SOP is to provide the child with a summary of the child's academic achievement and functional performance in order to assist the child to transition beyond high school.

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Question C-2: What information is required and what information would be helpful to include in the SOP?

Answer: The SOP must include recommendations on how to assist the child in meeting his or her postsecondary goals. The IDEA does not otherwise specify the information that must be included in the SOP; rather, State and local officials have the flexibility to determine the appropriate content to be included in a child's SOP, based on the child's individual needs and postsecondary goals.

Question C-3: Does a general educational development credential (GED) or alternate diploma trigger the creation of an SOP?

Answer: No. A public agency, pursuant to 34 CFR §300.305(e)(3), must provide a child whose eligibility for services under Part B of the IDEA terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for a free appropriate public education (FAPE) under State law, with a summary of the child's academic achievement and functional performance. This Part B requirement does not apply to the group of children who leave secondary school with a GED credential or alternate diploma and whose eligibility for services under Part B has not terminated. See 34 CFR §300.102(a)(3)(iv), which clarifies that a regular high school diploma does not include alternate degrees, such as a GED credential.

Public agencies are not required to provide an SOP for students who leave secondary school with a GED credential or alternate diploma; however, there is nothing in the IDEA or the Part B regulations that would prevent a State from doing so. If a State establishes a policy or practice requiring LEAs to provide an SOP to students with disabilities who leave high school with a GED credential or an alternate diploma, we recommend that, to avoid any confusion, the LEA notify the student and his or her parents that the student's eligibility for FAPE under Part B does not terminate until the student is awarded a regular high school diploma or the student exceeds the age of eligibility for FAPE under State law, whichever occurs first. States that require their LEAs to provide children who leave secondary school with a GED credential or alternate diploma with an SOP must comply with 34 CFR §300.199. Each State, under 34 CFR §300.199(a)(1), must ensure that any State rules, regulations, and policies conform to the purposes of Part B. Further, 34 CFR §300.199(a)(2) requires States to identify in writing to OSEP and to their LEAs any State-imposed requirement that is not required by Part B of the IDEA or the implementing regulations, such as one requiring their LEAs to provide children who leave secondary school with a GED or credential or alternate diploma with an SOP.

Question C-4: Is a public agency required to include in the SOP the documentation necessary to determine a student's eligibility for the Vocational Rehabilitation (VR) Services program and/or accommodations in institutions of higher education?

Answer: No. Section 614(c)(5) of the IDEA does not require the LEA to include in the SOP the documentation necessary to determine a child's eligibility for another program

or service, such as the State VR Services program, or the child's need for accommodations in college or in other postsecondary educational settings. However, the SOP may include information that may assist another program to determine a student's eligibility for services or accommodations. For example, section 102(a)(4) of the Rehabilitation Act of 1973, as amended, requires the State VR Services program to use information submitted by education officials to assist in making eligibility determinations for students with disabilities. The SOP is one of the educational records that may be used to provide information to determine a student's eligibility for VR services.

A postsecondary student who has identified him or herself as an individual with a disability and has requested academic adjustments, auxiliary aids or modifications of policies, practices or procedures from an institution of postsecondary education may, consistent with an institution's documentation requirements, provide the institution with the SOP as part of the documentation to be used by the institution to determine whether the student has an impairment that substantially limits a major life activity, as defined under Section 504 of the Rehabilitation Act (Section 504) and/or the *Americans with Disabilities Act (ADA)*, and requires academic adjustments as defined in the Section 504 regulations at 34 CFR §104.44. Institutions may set their own requirements for documentation so long as they are reasonable and comply with Section 504 and the ADA.

Question C-5: How can the SOP assist the VR Services program in the provision of transition services to eligible VR students with disabilities?

Answer: In addition to providing information that may be used to determine a student's eligibility for VR services, the SOP serves as a functional document that provides the VR Services program with information describing a student's vocational, employment, academic and personal achievements as well as vocational and employment supports needed by the student.

If determined to be eligible to receive VR services, the student, with the assistance of a VR counselor, develops an individualized plan for employment (IPE) to achieve a specific employment outcome. An SOP may facilitate the development of a meaningful IPE by providing information that describes the student's secondary and postsecondary goals, career interests, levels of academic performance, need for reasonable accommodations for work, and the functional levels of the student's social and independent living skills, at the time of completion of secondary education.

In general, an SOP that informs the State VR Services program of the student's academic and vocational functional performance may minimize delays in the transition service delivery system and better prepare the student for a successful career

Chapter 9

POSITIVE BEHAVIORAL INTERVENTIONS

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INTRODUCTION

This chapter contains procedures regarding behavioral assessment and intervention. IDEA and California's Title V Regulations require the implementation of specific procedures to guide IEP teams in their response to individuals with challenging behaviors. The West End SELPA districts have established policies and continue to in-service staff regarding its implementation.

There are two basic triggers to the need for behavioral assessment and intervention plans:

1. Disciplinary actions that constitute a "change of placement"
2. Behaviors which impede the learning of the student, or that of others

IDEA requires the use of functional behavioral assessment and positive behavior strategies and supports with students who are not necessarily dangerous, but who exhibit a pattern of behavior that interferes with learning - theirs or others. The California regulations also make it necessary for instructional staff to have the support of personnel specially trained in behavior analysis with an emphasis in positive behavior intervention when addressing serious behavior problems. IDEA requires that both general and special educators receive the training and support necessary to contribute to the development and implementation of positive behavior strategies. All of this makes it imperative that educational personnel in this SELPA become aware of these procedures and proficient in carrying them out.

The ultimate goal is to have teachers who understand the guiding principles underlying the procedures and who regularly apply sound positive programming strategies. The consequence should be a significant decrease in chronic and/or dangerous behaviors and less dependency on outside sources and exclusionary punitive reactions. The training outcomes are to provide local staff with the tools and knowledge necessary to not only meet the requirements of the law, but to more effectively and efficiently meet the needs of students with challenging behaviors.

Section A - The Behavior Intervention Plan (BIP) Process

The "Behavior Intervention Plan" process is a systematic procedure designed to guide IEP teams to develop positive behavior strategies and goals that are tied to the function of the problem behaviors. A behavior Intervention plan is required whenever a student's behavior impedes their learning or the learning of others. In addition, in discipline settings, when a manifestation determination has found that the behavior is a manifestation of the student's disability, if there is not a behavior intervention plan in place, one must be developed and implemented with fidelity. If BIP is in place, it must be reviewed and modified as needed.

The first step in developing a behavior intervention plan is a functional behavioral assessment. During the assessment the behavior is identified in observable and measurable terms, and information is collected to determine what environmental or instructional factors increase or decrease the behavior, and what purpose is the behavior serving for the student. This information is used to develop a plan of which specifies what the school staff will do to address the behavior, including any changes to the environment, or instructional program, which will decrease the behavior in addition to a teaching plan for an alternative behavior that provides the student with an appropriate way to get his/her needs met. Behavioral goals and communication strategies are developed to monitor the success of the plan. It is best to use a team approach when developing a behavior intervention plan. Having all individuals who work with the student involved in the development of the plan increases the consistency with which the plan is implemented.

**BEHAVIOR INTERVENTION PLAN
IS
LOCATED IN SEIS
UNDER REFERENCE MATERIALS,
DOCUMENT LIBRARY**

Section B -The Functional Behavior Assessment and Behavior Intervention Plan Process

General Provisions

1. Recommended at least one person who is specially trained in behavior analysis with an emphasis on positive behavior interventions is on the IEP team.
2. Includes a summary of data/results obtained from the functional behavioral analysis.
3. Describes the targeted maladaptive behavior/s and the alternative positive replacement behavior/s.
4. Defines goals and objectives specific to the targeted and replacement behaviors.
5. Outlines behavioral interventions that utilize positive programming and the circumstances for their use.
6. Defines record keeping of interventions and their effectiveness.
7. Includes criteria for discontinuing interventions or modifications following the IEP process.
8. States evaluation timeline.

Behavior Intervention Plan Procedures

1. Behavior Intervention Plan is not effecting desired changes in behavior.
2. A request for intervention is made to the IEP team.
3. IEP Team is expanded to include at least one person who is specially trained in behavior analysis with an emphasis on positive behavior intervention and others knowledgeable of the student, as appropriate
4. The IEP assessment process is followed to conduct the functional behavior assessment.
5. The functional behavior assessment is supervised by an individual specially trained in behavior analysis with an emphasis on positive behavior interventions and includes direct observation, interviews with significant others, and a review of all available data.
6. Analysis components:
 - Direct observation, interviews, and reviews of data.
 - Systematic observations of antecedents.
 - Systematic observations of targeted behavior.
 - Systematic observations/analysis of consequences.
 - Ecological analysis of setting.
 - Review of health/medical records.
 - Review of behavior history and interventions.
7. Written report of findings.
8. BIP developed by IEP team.

Implementation

Requires the systematic implementation of proactive procedures that result in desirable or socially acceptable behavior changes. Includes the following:

- Based on functional behavior assessment and proactive programming.
- Identified ecological and immediate antecedents manipulated to increase new behaviors while decreasing undesirable and/or socially unacceptable behaviors.
- Adaptive and self-management skills identified, curriculum developed and implemented
- Socially acceptable or desirable functionally equivalent and related replacement behaviors directly taught and reinforced in context.

Evaluation

1. Baseline data used as standard.
2. Targeted behaviors measured at scheduled intervals determined by IEP team.
3. Documentation of program implementation.
4. Review of program in meeting, by telephone conference, or by any means agreed upon by IEP team.
5. Teacher an individual specially trained in behavior analysis with an emphasis on positive behavior interventions will conduct functional behavior assessments and then propose changes to plans, as needed.
6. Minor modifications can be made by an individual specially trained in behavior analysis with an emphasis on positive behavior interventions and implementers, or qualified designee, and parent or parent representative.

The Behavior Intervention Plan - A written intervention plan, which is based on a functional behavior assessment of both the problem behavior and its functionally equivalent replacement. It is facilitated by an individual specially trained in behavior analysis with an emphasis on positive behavior interventions and must adhere to California's Positive Behavior Intervention Regulations. It shall become a part of the IEP, shall generate measurable goals and objectives and shall describe the frequency of consultation to be provided by an individual specially trained in behavior analysis with an emphasis on positive behavior interventions to staff members and parents who are responsible for implementing the plan. Behavior Intervention Plans are required when significant behavioral challenges have an adverse impact on the learning of self and/or others.

Functional Behavior Assessment – When a special education student's significant behavioral challenge(s) have an adverse impact on their learning and the learning of other pupils, or both, the student's IEP team shall determine whether the instructional/behavioral approaches specified in the Student's IEP and BIP, if appropriate, have proven ineffective. If the IEP team finds that these approaches have been ineffective, a functional behavior assessment may be conducted. Before a functional behavior assessment begins, parents/guardians shall be notified and consent obtained. No such assessment shall preclude a parent/guardian from requesting a functional behavior assessment on the basis of language and speech disorders or specific learning disabilities. The functional behavior assessment shall be conducted by, or under the supervision of, a person designated by the district as qualified in behavior analysis with an emphasis on positive behavior interventions.

Severe Student Behaviors - Pervasive actions that consistently interfere with the implementation of the IEP and/or constitute a behavioral emergency.

Behavior Emergency Incident Report - A formal report that is required any time physical restraint or emergency intervention is used in any form, as a response to significant behavior challenge. This report must be submitted to the parent, district special education director/area director, school site administrator/county principal within one school day of the incident.

Section C - Behavioral Emergency Procedures

This section is intended to assist teachers and support staff in understanding and implementing their roles and responsibilities regarding ED 56521.1 - the implementation of Emergency Interventions. - These regulations require each SELPA to establish procedures that govern the systematic use of behavioral and emergency interventions for special education students who present severe behavioral challenges. To accomplish this, special training and guidance is required to be provided for teachers and support staff to not only respond appropriately and effectively to serious behaviors, but to proactively incorporate positive behavioral programming planning for all students. The following pages contain the SELPA adopted policies that relate directly to classroom level implementation. Additional information and support can be obtained by contacting your special education administrator or the West End SELPA.

Chapter 9 Positive Behavioral Interventions

The responsibility of the classroom teacher in meeting the Positive Behavior Intervention regulations begins when a special education student demonstrates either, a) a pattern of serious behavior problems or, b) behaviors serious enough to warrant emergency interventions.

What Constitutes a Significant Behavior Challenge?

Serious behavioral problems can be defined by asking the following questions:

1. Is the behavior a function of the student's disability and does it interfere with the implementation of the IEP goals and objectives, and
2. Is the behavior pervasive and maladaptive, or pose a danger to the student or others, and
3. Does the behavior require the systematic and frequent application of behavioral interventions?

What Procedures Should the Teacher Follow When Significant Behavior Challenges occur but Does Not Constitute an Emergency?

1. A serious behavior, or pattern of behaviors, is identified.
2. A request for assistance is made to the IEP team by the teacher.
3. The IEP Team administrator/designee invites an individual specially trained in behavior analysis with an emphasis on positive behavior interventions to the meeting.
4. The IEP assessment process is followed to conduct a functional behavior assessment.
5. The functional behavior assessment is facilitated by an individual specially trained in behavior analysis with an emphasis on positive behavior interventions and includes:
 - Direct observation, interviews, and review of data
 - Systematic observations of antecedents
 - Systematic observations of targeted behavior and replacement behaviors
 - Systematic observations of consequences
 - Ecological analysis of settings where behavior occurs
 - Review of health/medical records
 - Review and analysis of behavior history and interventions
6. Analysis findings are used by the IEP team to develop a Behavior Intervention () Plan (BIP).
7. A summary report of the analysis and the BIP is developed and is attached to the IEP.
8. IEP behavioral goals and objectives are identified in the BIP, are included on the goals page in the IEP, and/or are developed or amended to reflect the expected outcomes from the BIP.

What Constitutes a Behavioral Emergency?

Behavior Emergency is the demonstration of a significant behavior challenge:

1. Which has not previously been observed and for which a behavioral intervention plan has not been developed; or
2. For which a previously designed behavior intervention plan is not effective.

To be defined as a behavioral emergency a behavior must pose a clear and present danger of serious physical harm to the student or others or it must pose the threat of serious property damage.

Furthermore, emergency interventions are necessary to control the behavior and/or to prevent further harm or damage.

The teacher can identify a behavioral emergency by asking the following questions:

1. Is there a threat of serious physical harm to the student, to another student, or to a staff member?
2. Is the possibility of serious physical harm imminent?
3. Have less restrictive alternatives been exhausted?

What Interventions may be used in a Behavioral Emergency?

California Regulations define emergency intervention as the temporary application of a technique used to control a student's unpredictable, spontaneous behavior. Each SELPA is required to identify the approved emergency intervention techniques for that SELPA. The West End SELPA's approved emergency intervention techniques are those developed by Crisis Prevention Institute (CPI). The West End SELPA provides certification in CPI, and all staff working with students displaying significant behavior challenges are to complete the prescribed training. In the West End SELPA, initial certification is good for two years, after which staff are required to attend a refresher training or the full two-day training.

What Philosophical Guidelines Should be considered by Teachers/Aides in Responding to a Behavioral Emergency?

The use of punishing contingencies, including the use of physical force or corporal punishment, is not an accepted practice. It is neither utilized nor condoned. At times, however, a student may engage in behavior that presents a potential danger to the physical safety of staff, other students, or to the student himself.

In such crisis situations, teachers must be committed to utilizing the least restrictive method that will enable the student to regain self-control. Care is taken to ensure that the safety and welfare of the individual are protected at all times. It is the responsibility of all educators to provide the best care and safety of students by accurately identifying and responding to the unique behavioral and emotional characteristics of any student in a crisis situation.

In What Ways Can a Teacher/Aide Respond to a Behavioral Emergency?

To ensure that these responsibilities are carried out in a professional and consistent manner, all staff who work students displaying significant behavior challenges are required to become certified in the non-violent physical crisis interventions as instructed through the "Crisis Prevention Institute" (CPI) procedures. This is a two-day training and can be scheduled through the WESELPA.

1. The teacher, or other professional in the vicinity, determines that a behavioral emergency exists per the analysis of an emergency.
2. Use only West End SELPA approved non-violent crisis intervention procedures (CPI).
3. Student is made safe per staff judgment.
4. Other students and staff are made safe.
5. Staff members in crisis situations involving potential physical intervention should request assistance from at least one additional staff member at the earliest possible moment.
6. The site administrator is to be informed as soon as possible.
7. Students shall not be subjected to verbal abuse, threats, or derogatory remarks under any circumstances.
8. Students shall not be subjected to corporal punishment under any circumstances.

What are Limitations the Teacher/Aide Must be Aware of When Responding to a Behavioral Emergency?

1. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room, is prohibited.
2. Staff shall not employ a device or material or objects, which simultaneously immobilizes all four extremities, except that prone containment may be used as an emergency intervention by staff trained in the procedure.
3. Staff shall not use an amount of force that exceeds that which is reasonable and necessary under the circumstances.
4. The duration and application cannot be longer than is necessary to contain the behavior. Beyond this point, the emergency event would cease and further application would constitute a punishment procedure.

After a Behavioral Emergency has Occurred, What Procedures Should the Teacher Follow?

The technique applied to contain the behavior must have been specifically designed for such contingencies with a focus on containment of the student without accompanying harm or injury. Such techniques must never be used as a substitute for systematic behavioral interventions which are designed to change, modify, or eliminate the targeted behavior.

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1. Notify site and special education administrator immediately.
2. Notify parent/guardian immediately.
3. File Behavior Emergency Incident Report with the above administrator and parent/guardian within 24 hours.
4. Anytime a Behavior Emergency Incident Report is written regarding a pupil who does not have a Behavioral Intervention Plan, the designated responsible administrator shall, within two days, schedule an IEP meeting to:
 - Determine if a functional behavior assessment of that emergency behavior is warranted, and
 - To develop an interim behavioral intervention plan with the parent/care provider, if appropriate.
5. Anytime a Behavior Emergency Intervention Report is written regarding a pupil who has either an "Emergency" Behavioral Intervention Plan (BIP), the following procedures should prevail:
 - If the incident involves a previously unseen serious behavior, the plan should be modified to address the new behavior, which would probably require a functional behavior assessment of the new behavior.
 - Where a previously designed plan is not effective, it should be referred to the IEP team including an individual specially trained in behavior analysis with an emphasis on positive behavior interventions, to review and determine if the incident constitutes a need to modify the plan and/or to request SELPA Behavior Specialist support.

What is the Responsibility of the IEP Team?

Education Code Section 56327 requires that the psychoeducational assessment report for all pupils suspected of having a disability include "the relevant behavior noted during the observation of the pupil in an appropriate setting" and "the relationship of that behavior to the pupil's academic and social functioning." Therefore, many pupils will have goals and objectives in their IEPs relating to behaviors, either behaviors which contribute to improved learning skills or behaviors which enhance interpersonal and social skills. The IEP team utilizes assessment findings to determine which instructional strategies are most appropriate to teach or manage behavior and then develops goals and objectives accordingly. Such goals and objectives may contain behavioral interventions that are not based on a functional behavior assessment or a behavioral intervention plan described in CCR Section 3052.

However, when the IEP team finds that 1) instructional strategies and classroom management approaches are ineffective in a given situation, or 2) the behaviors are "other severe behavior problems that are pervasive and are maladaptive" or 3) when previous behavior intervention plans are now determined to be unsuccessful in reducing dangerous or seriously maladaptive behavior, the IEP team may determine that a more thorough functional behavior assessment is required to obtain necessary information about the related antecedent/s and consequences of the targeted behavior. Using this information, a more systematic and comprehensive behavioral intervention plan may be developed by an expanded IEP team, implemented by appropriately trained staff, parents, and others necessary to carry out the goals and objectives, and regularly monitored by one or more members of the IEP team including an individual specially trained in behavior analysis with an emphasis on positive behavior interventions). The positive behavioral intervention plan is to be implemented as necessary in all school related settings such as the classroom, playground, and community-based instructional settings and/or work site.

Since the functional behavior assessment will also include many other aspects of a student's functional behaviors, it is intended that the behavioral intervention plan should be discussed with the parents, and/or caregivers and shared as appropriate with other agency staff responsible for related services or residential care for the student. It is not intended that school staff be required to implement the plan in non-educational settings unless the service and setting is specifically designated in the student's IEP.

What Happens if the Behavior Intervention Plan is Not Successful in Decreasing the Targeted Behavior/s?

IEP team members are encouraged to secure support from the following sources when it becomes apparent that the existing plan, with modifications, is not being successful:

1. Consultation with another individual specially trained in behavior analysis with an emphasis on positive behavior interventions

2. Consultation with WESELPA Program Specialist
3. Consultation with and/or additional analysis by WESELPA Behavior Specialist

Section D – Federal and State Regulations

IDEA 2004 - Behavior Related Regulations

Authority of school personnel. § 300.530 (f)

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP

Team must--

(1) Either--

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

IEP Team Must Consider Positive Behavior Interventions §300.324(a)(2)

In the case of a child whose behavior impedes the child's learning or that of others, consider, the use of positive behavioral interventions, and supports and other strategies to address that behavior;

Regular Education Teachers §300.324(a)(3)

Requirement with respect to regular education teacher. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of:

- (1) Appropriate positive behavioral interventions and strategies for the child; and
- (2) Supplementary aids and services, program modifications and supports for school personnel, consistent with 300.320(a)(4).

CALIFORNIA EDUCATION CODE 56520-56525

Behavioral Interventions for Special Education Students

56520. (a) The Legislature finds and declares all of the following:

(1) That the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions.

(2) That some school-age individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both.

(3) That Section 1400(c)(5)(F) of Title 20 of the United States Code states that research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children.

(4) That procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under Section 49001 or those that cause pain or trauma.

(b) It is the intent of the Legislature:

- (1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and

Chapter 9 Positive Behavioral Interventions

interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(2) That assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.

(3) That when behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil's right to placement in the least restrictive educational environment.

(4) That behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

56521. (a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

56521.1. (a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

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

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

(d) Emergency interventions shall not include:

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

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

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

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

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

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

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

56521.2. (a) A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

(2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

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(3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

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

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

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

(7) An intervention that precludes adequate supervision of the individual.

(8) An intervention that deprives the individual of one or more of his or her senses.

(b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

56523. (a) The Superintendent shall repeal those regulations governing the use of behavioral interventions with individuals with exceptional needs receiving special education and related services that are no longer supported by statute, including Section 3052 and subdivisions (d), (e), (f), (g), and (ab) of Section 3001 of Title 5 of the California Code of Regulations, as those provisions existed on January 10, 2013.

(b) This chapter is necessary to implement the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and associated federal regulations. This chapter is intended to provide the clarity, definition, and specificity necessary for local educational agencies to comply with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and shall be implemented by local educational agencies without the development by the Superintendent and adoption by the state board of any additional regulations.

(c) Pursuant to Section 1401(9) of Title 20 of the United States Code, special education and related services must meet the standards of the department.

(d) As a condition of receiving funding from the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a local educational agency shall agree to adhere to this chapter and implementing federal regulations set forth in this chapter.

(e) The Superintendent may monitor local educational agency compliance with this chapter and may take appropriate action, including fiscal repercussions, if either of the following is found:

(1) The local educational agency failed to comply with this chapter and failed to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

(2) The local educational agency failed to implement the decision of a due process hearing officer based on noncompliance with this part, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the federal implementing regulations, wherein noncompliance resulted in the denial of, or impeded the delivery of, a free appropriate public education for an individual with exceptional needs.

(f) Commencing with the 2010-11 fiscal year, if any activities authorized pursuant to this chapter and implementing regulations are found to be a state reimbursable mandate pursuant to Section 6 of Article XIII B of the California Constitution, state funding provided for purposes of special education pursuant to Item 6110-161-0001 of Section 2.00 of the annual Budget Act shall first be used to directly offset any mandated costs.

(g) The Legislature hereby requests the Department of Finance on or before December 31, 2013, to exercise its authority pursuant to subdivision (d) of Section 17557 of the Government Code to file a request with the Commission on State Mandates for the purpose of amending the parameters and guidelines of CSM-4464 to delete any reimbursable activities that have been repealed by statute or executive order and to update offsetting revenues that apply to the mandated program.

56524. The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

56525. (a) A person recognized by the national Behavior Analyst Certification Board as a Board-Certified Behavior Analyst may conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

(b) This section does not require a district, special education local plan area, or county office to use a Board-Certified Behavior Analyst to conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

NOTE: Authority: Section 56523(a), Education Code. Reference: Sections 56520 and 56523, Education Code.



West End SELPA Procedural Advisory – Behavioral Emergencies

This advisory is written to assist staff in appropriately responding to serious behavioral challenges, which may require the use of physical intervention. The information is based on California's AB 86, adopted 7/1/2013.

What is a behavioral emergency?

- (a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.
- (b) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.
- (c) No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

An individual can identify a behavioral emergency by asking the following questions:

1. Is there a threat of serious physical harm to the student, to another student, or to a staff member?
2. Is the possibility of serious physical harm imminent?
3. Are less restrictive alternatives unavailable?

If the behavior can be contained by techniques such as: redirecting the student, removing the other students, removing a demand, providing the student with a break, allowing the student to vent, or maintaining a safe distance from the acting out person, then it is not a behavioral emergency and physical restraint may not be used. For example, if a student is non-compliant, refusing to comply with a teacher directive, it is not permissible to physically force compliance, unless failure to follow the directive would cause imminent serious physical harm.

Emergency Interventions

Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses a clear and present danger of serious physical harm to the individual with exceptional needs, or others, and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

Due to the risk of injury to the students with exceptional needs and others involved, whenever a behavior emergency occurs, only approved behavioral emergency intervention techniques may be used. The approved emergency intervention techniques for the West End SELPA are those developed by the Crisis Prevention Institute (CPI). These techniques are:

1. Holding in a seated position
2. Holding in a standing position
3. Team control position
4. Children's control position

Only staff members who have received training in the above techniques, is current in the certification, and have demonstrated competence in their use are permitted to conduct an emergency intervention.

Staff employing these techniques must be trained and certified in the approved non-violent crisis intervention -CPI. This training is available through the West End SELPA. The initial training is a two-day training. Certification is

Chapter 9 Positive Behavioral Interventions

valid for a two-year period; staff may renew their certification by completing a one-day refresher course within the two-year period, or by retaking the complete two day training. The West End SELPA strongly encourages that all staff who work with potentially acting out students become certified in CPI. Behavior Intervention Case Managers are required to be certified in CPI.

Emergency interventions may not include:

1. Locked seclusion unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
2. Employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures.
3. An amount of force that exceeds that which is reasonable and necessary under the circumstances.
4. An intervention that precludes adequate supervision of the individual.
5. An intervention that deprives the individual of one or more of his or her senses.

Note:

In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

Behavioral Emergency Reports

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. A copy of the Behavior Emergency Report must also be sent to:

- ◆ Site Administrator/County Principal
- ◆ District Director of Special Education/Area Director

The designated responsible administrator must review the behavioral emergency report.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

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**West End SELPA
Behavior Emergency Report**

Date of Incident: _____ Time Incident Began: _____ Time Incident Ended: _____
 Student: _____ Age: _____ School: _____
 Setting/Location: _____ Staff Involved: _____
 Positive Behavior Intervention Plan: YES NO
 Target behavior(s) on the behavior plan: _____

Describe Student Behavior/Incident (observable behaviors)	Staff Response
<div style="border: 1px solid black; padding: 2px; width: 30px; text-align: center; font-weight: bold;">Escalation Stages</div> Anxiety:	<input type="checkbox"/> proximity <input type="checkbox"/> counseling <input type="checkbox"/> restructure routine/environment <input type="checkbox"/> accommodate materials/expectations <input type="checkbox"/> other: _____
<div style="border: 1px solid black; padding: 2px; width: 30px; text-align: center; font-weight: bold;">Escalation Stages</div> Defensive:	<input type="checkbox"/> redirect, restate direction <input type="checkbox"/> set limits: _____ <input type="checkbox"/> separate student from group <input type="checkbox"/> separate the group from student <input type="checkbox"/> offer break <input type="checkbox"/> other: _____
<div style="border: 1px solid black; padding: 2px; width: 30px; text-align: center; font-weight: bold;">Intervention</div> Risk Behavior:	Disengagement Skills <input type="checkbox"/> Strikes <input type="checkbox"/> Wrist/Arm holds __Low __Medium __High <input type="checkbox"/> Neck hold __Low __Medium __High <input type="checkbox"/> Clothing grab __Low __Medium __High <input type="checkbox"/> Hair pull __Low __Medium __High <input type="checkbox"/> Body hug __Low __Medium __High <input type="checkbox"/> Bite __Low __Medium/High Emergency intervention/Holding skills: Duration of restraint: ____ <input type="checkbox"/> Holding in a seated position __Low __Medium __High <input type="checkbox"/> Holding in a standing position __Low __Medium __High <input type="checkbox"/> Team control position <input type="checkbox"/> Children's control position
<div style="border: 1px solid black; padding: 2px; width: 30px; text-align: center; font-weight: bold;">Debriefing</div> Tension Reduction:	<input type="checkbox"/> review events <input type="checkbox"/> review schedule <input type="checkbox"/> make plan: _____ _____ _____ _____
Injury/Medical Follow up Student: <input type="checkbox"/> sent to nurse <input type="checkbox"/> first aid <input type="checkbox"/> 911 Paramedics <input type="checkbox"/> CPR	Injury/Medical Follow up Staff: <input type="checkbox"/> sent to nurse <input type="checkbox"/> first aid <input type="checkbox"/> 911 Paramedics <input type="checkbox"/> CPR

Chapter 9 Positive Behavioral Interventions

**West End SELPA
Behavior Emergency Report**

Other pertinent information:

Were there any precipitating factors? If so, please list.

What was the trigger/antecedent of the behavior?

Is the target behavior an isolated event or is there a history/pattern of behavior? How many times has occurred in the last month? 3 months?

How was the staff or students in eminent danger when staff employed physical emergency intervention?

Check one:

- If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

- If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

COPIES OF BEHAVIORAL EMERGENCY REPORTS WERE SENT TO:

Distribution	Name	Date
Parent or Care Provider		
Site Administrator/County Principal		
Special Education Director		
SBCSS Area Director		
Student File		

Note: Behavior Emergency Reports are to be sent within 24 hours of the incident

Signature of Person Completing the Report: _____

Signature of Administrator Reviewing the Report: _____

Instructions for Completing the West End SELPA Behavioral Emergency Report

All Sections of the Behavioral Emergency Report must be completed. The form is two pages in length. Once completed, the report is distributed as indicated on the second page and a copy is placed in the student file.

Target behavior(s) on the behavior plan:

If the student has a current behavior intervention plan, using clear and concise language, list the target behaviors addressed in the plan.

Describe Student Behavior/Incident:

The description of the incident follows the stages of escalation in the CPI model. Using clear, concise language identify the observable behavior the student demonstrated at each stage. This will assist the IEP team in analyzing the event.

Examples of Observable Behavior:

Anxiety	Pacing, finger drumming, wringing hands, rocking, humming, increased rate of breathing, failure to maintain eye contact
Defensive	Questioning, yelling, loud noises, refusals, name calling, verbal threats, swearing, moves toward staff, drops to ground, arms crossed, hands over ears, pushes materials, throws things
Risk Behavior	Hit, kick, strike, choke, breaks property, tears clothing, running in dangerous area, self injury
Tension Reduction	Breathing calmed, follows simple directions, sits down, goes to relaxation area

Staff Response:

Check the responses the staff made to attempt to de-escalate the student. Indicate all that apply, if other, provide a written description.

Injury/Medical Follow up:

Identify any injuries to the student and/or staff and intervention used to address the injury. Complete any additional reports per district requirements.

Other pertinent information:

Indicate anything that will assist the IEP team in analyzing the behavioral incident. List any precipitating factors that may have contributed to the behavior emergency episode. Indicate the trigger/antecedent of the behavior. Indicate the number of times that the behavior has occurred in the last month and three months. Indicate how the staff or student(s) were in imminent danger, resulting in the staff requiring to use behavior emergency intervention.

Procedural Follow up:

Check the appropriate procedures to be followed based on whether the student has a current behavior intervention plan.

Required Notifications:

Indicate the names of the individuals notified and the date that they were notified.

Follow-up Procedure:

The Behavior Emergency IEP Follow-Up Form needs to be completed at the follow-up IEP meeting to discuss the behavior emergency incident report. Once completed, the form needs to be attached to the IEP. The form need to be distributed to the IEP team members.

Chapter 9 Positive Behavioral Interventions

West End SELPA Behavior Emergency IEP Follow-Up Form

IEP Date: _____ Date of Incident: _____ Student: _____ School: _____

IEP Team Members:

Title	Name
Parent	

1. Does the current behavior intervention plan address the behavior that resulted in the use of behavior emergency intervention?

2. Were the positive behavior supports indicated in the behavior plan employed during the incident? Were they effective?

3. What additional positive behavior support strategies are now in place to prevent future incidents and allow this student to be successful?

4. Does a functional behavior assessment need to be conducted in order to collect additional data before developing a behavior intervention plan?

5. What supports or training does the staff need to more effectively implement positive behavior supports to increase student success?

Chapter 10

SUSPENSION AND EXPULSION PROCEDURES

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Introduction

Students with special needs may be suspended for the same violations as students in general education; however, they have additional due process protections under IDEA. It is important to understand when a disciplinary removal from school is considered a change of placement, when a manifestation determination needs to be conducted, and even when a district is considered to have knowledge that a student is a student with special needs.

Section A –Disciplinary Removals and Change of Placement

A student with disabilities may be removed to another setting or suspended for ten days the same as any other student. Suspensions for longer than ten days may constitute a change in placement, and specific procedures must be followed. A series of short term removals totaling more than ten days, that do not constitute a pattern of removal, is not considered to be a change of placement. In this case, the student must be provided educational services which would allow him to participate in the general education curriculum and make progress toward his IEP goals. The educational services may be provided in another setting, and are determined by school personnel in consultation with at least one of the student's teachers.

A series of short term removals, totaling more than ten days, that do constitute a pattern of removal, is considered a change of placement. To determine if the removals constitute a pattern, the district must consider if the behavior that resulted in the removals is substantially similar, the length of time of each removal, the total amount of time the student was removed and the proximity of the removals to one another. It is recommended that the district assign one individual, such as the site principal, to make the decision whether the series of removals constitutes a pattern and the reason for that decision. Careful documentation of the reason for each disciplinary removal will aid in this decision making. In addition, any removal for more than ten consecutive days is considered a change of placement.

On the eleventh day of removal, the student must be provided with educational services which would allow him to participate in the general education curriculum and make progress toward his/her IEP goals. In addition, the student must be provided with a functional behavior assessment and behavior intervention services designed to prevent the behavior from occurring again assuming the behavior resulting in the removal was a manifest of the student's disability and/or the district properly implemented the IEP (refer to Section B). The educational services may be provided in another setting, and in cases where the removal is a change of placement are determined by the IEP team.

When the disciplinary removal of student with a disability constitutes a change of placement, the district must hold a manifestation determination meeting. The manifestation determination meeting must be held within ten days of the date that the decision to make a change of placement was made. On the date the decision is made to make the change of placement, the district must also provide the parent with prior written notice regarding the change of placement.

Section B– Manifestation Determination

A manifestation determination review meeting is conducted by the district, the parent, and relevant members of the IEP team. While a full IEP team is not required for the manifestation determination review, the district may want to have a full IEP team at the meeting in case other issues requiring an IEP team come up during the meeting. The purpose of the manifestation determination meeting is not to determine whether the student engaged in the behavior, but to determine if the behavior was a manifestation of the student's disability. At the manifestation determination review meeting, the team must consider all relevant information in the student's file, the student's IEP and placement, any teacher observations, and any information provided by the parent.

Under IDEA 2004 the manifestation determination process was substantially changed. In determining if the student's behavior is a manifestation of their disability only two questions must be addressed:

1. Was the conduct in question caused by, or had a direct and substantial relationship to the student's disability?
2. Was the conduct in question the direct result of the district's failure to implement the IEP?

If the answer to both of the questions above is no, then the student is subject to the same disciplinary rules as non-disabled students, although educational services as described in Section A must continue to be provided. Under IDEA 2004 the requirement for a functional behavior assessment and behavior intervention plan was removed when the behavior is not a manifestation of the student's disability. However, districts should carefully review the need for positive behavior interventions as required elsewhere in IDEA when behavior is interfering with a student's learning or the learning of others.

If the answer to one or both of the questions above is yes, then the behavior is considered to be a manifestation of the student's disability. When the behavior is a manifestation of the student's disability, the IEP team must conduct a functional behavioral assessment of the behavior that resulted in the disciplinary removal, unless it had already done so, and implement a behavior intervention plan. If a behavior implementation plan was already in place, the plan must be reviewed and modified as needed to address the behavior. In addition, the student is returned to his previous placement, unless the IEP team agrees to a change of placement as part of a modification of the behavior intervention plan. If the behavior was a result of the IEP not being implemented, immediate steps must be taken to rectify this.

Section C– Interim Alternative Educational Settings

School personnel may remove a student to an interim alternative educational setting for up to 45 school days without regard to whether the student's behavior is a manifestation of his disability under any of the following circumstances:

- When the student possesses a weapon at school, on school premises, or at a school function
- 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
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function

In addition, a school district may request an expedited hearing from the Office of Administrative Hearings to have a student placed in an interim alternative educational setting for up to 45 school days if the hearing officer determines that maintaining the student in the current placement would result in the substantial likelihood of injury to the student or others.

A district may also consider a Honig Injunction as a means of temporarily removing a dangerous student from his current placement. In this case the district would apply to the court for a temporary restraining order.

Section D – Procedural Safeguards

A parent who disagrees with the manifestation determination or a disciplinary placement may file for an expedited due process hearing. The expedited due process hearing must occur within twenty school days of the date of the request. The notice of insufficiency process does not apply to an expedited due process hearing. The resolution session must occur within seven days, unless waived by the parties. When the parent or a district requests an expedited due process hearing the student must remain in the disciplinary setting until the hearing decision is issued.

A parent of a student not previously identified as a student with special needs may assert protection under IDEA when the district is deemed to have had knowledge that the student was a student with special needs. A district is deemed to have knowledge that a student is a student with special needs if prior to the incident, the parent has expressed in writing to a district administrator or one of the student's teachers that the student is in need of special education services, or if the parent had requested an evaluation of the student. The district would also be deemed as having knowledge if a student's teacher or other district staff member has expressed specific concerns about a pattern of behavior demonstrated by the student to the director of special education or other supervisory personnel. If the parent has not allowed an evaluation, refused special education services, or the student has been evaluated and found not to be eligible for special education, the parent may not assert protection under IDEA.

CHAPTER 10 SUSPENSION AND EXPULSION PROCEDURES

APPENDIX A – SPECIAL EDUCATION DISCIPLINE CHART

No Change of Placement

Type 1	Type 2
Ten (10) or fewer cumulative days of suspension	Eleven (11) or more cumulative days of suspension
34 CFR § 300.530	34 CFR § 300.530(b)(1)

No Manifestation Determination

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.

Where- May be in an IAES
Decided by- school personnel in consultation with at least one of child's teachers.
 34 CFR § 300.530(d)(4)

Change of Placement

Case by case determination 34 CFR § 300.530(a)

Type 3	Type 4
Ellen (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	More than ten (10) consecutive days suspension/expellable offense
34 CFR § 300.536	34 CFR § 300.530©

Manifestation Determination within 10 school days of decision to change placement by a team including LEA, parent & relevant members of 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 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 a FBA and develop BIP/BSP--OR--
 - 2) Review and modify as necessary, preexisting BIP/BSP
- 34 CFR § 300.530(j)

Placement

- a. Prior placement unless parent/LEA agree to modify placement as part of BIP/BSP
- b. 45 Day IAES
Special Circumstances
 - Weapons
 - Drugs
 - Serious Bodily InjuryHearing 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)

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)

Not a Manifestation

Apply same discipline as to students without disabilities, except for educational services below.
 34 CFR § 300.530(c)

Placement

Expulsion

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)

Chapter 11

LOW INCIDENCE FUNDING

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SECTION C	FREQUENTLY ASKED QUESTIONS.....	11-4

Introduction

This chapter reviews the procedures related to the funds provided to SELPA and distributed to the local school districts to support their students with low incidence disabilities. Due to the nature and/or severity of low incidence disabilities, this additional money is afforded to districts to provide specialized materials and services that are necessary for these students to benefit from their education as outlined by their Individualized Education Program (IEP) or Individual Family Service Plan (IFSP).

Section A – Legal Requirements

EC 56836.22 (a) Commencing with the 1985-86 fiscal year, and for each fiscal year thereafter, funds to support special education and related services as required under the individualized education program for each pupil with low-incidence disabilities, as defined in Section 56026.5, shall be determined by dividing the total number of pupils with low-incidence disabilities in the state, as reported on December 1 of the prior fiscal year, into the annual appropriation provided for this purpose in the Budget Act. (b) The per-pupil entitlement determined pursuant to subdivision (a) shall be multiplied by the number of pupils with low-incidence disabilities in each special education local plan area to determine the total funds available for each local plan. (c) The Superintendent shall apportion the amount determined pursuant to subdivision (b) to the special education local plan area for purposes of providing special education and related services as required under the individualized education program for each pupil with low-incidence disabilities.

The low incidence money is distributed in accordance with the regulations set out in Education Code 56836.22. All local education agencies that have one or more students with a low incidence disability are eligible to access additional funds, monitored through the West End SELPA, for the purpose of purchasing and coordinating the use of specialized books, materials, and services to be used specifically by these identified individuals.

Low incidence funds are used to “supplement”, not to “supplant”, other funding sources (i.e. general education funding, other special education funding, or funding by other agencies)

Low incidence funding may not be used for the following:

- non-specialized instructional service
- medical equipment or storage units
- general classroom supplies
- diagnostic assessments
- consultation or in-service to staff
- materials used primarily by teachers instead of students
- non-specialized computer systems or software

EC 56026.5 “Low incidence disability” means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purpose of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof. For purposes of this definition, vision impairments do not include disabilities within the function of vision specified in Section 56338.

CHAPTER 11 LOW INCIDENCE FUNDING

Students with the following primary or secondary disabilities are eligible for low incidence funding:

- **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.
- **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 § 300.7(c)(3)) **Hearing Impairment (HI):** Hearing Impairment is a federal category of disability, which includes both hard of hearing and deaf individuals as defined above.
- **Visual Impairment (VI):** Visually Impaired, including blindness means impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children. (34 CFR § 300.7(c)(13)).
- **Orthopedic Impairment (OI):** Orthopedic Impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures). (34 CFR §. 300.7(b) and 300.7(c)(8))
- **Deaf-Blindness (DB):** Deaf-Blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. (34 CFR §. 300.7(c)(2)).

Determine whether or not the disability is primary or secondary by reflecting on whether the disability inhibits the educational process. If the disability does pose a barrier to learning, then it may be listed as a primary disability. If it does not negatively affect learning, it must be listed as a secondary disability to allow purchases to be made using low incidence funds.

The school district may access low incidence funds when the specialist completes a written report that documents the need for specialized services, materials, and/or equipment to support the educational needs of the student brought about by the low incidence disability. At the student's IEP/IFSP meeting, the team must agree that such services, materials, and/or equipment will be necessary in order to support the student in their individualized education program. It is the responsibility of the district to locate funds to purchase the items documented in the IEP or IFSP.

Section B – Accessing Funding

The IEP/IFSP team shall state the need for and the type of specialized books, materials, equipment, or services needed for the student to benefit from their educational program.

The IEP/IFSP must include the following:

- Documentation of the low incidence disability
- An assessment demonstrating the need for specialized services, materials, and/or equipment which has been completed and reviewed by personnel knowledgeable of the suspected low incidence disability

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- A goal/objective which directly relates to the use of the specialized books, materials, or equipment being requested

A low incidence packet should include the following documentation:

- Two copies of the completed "Notice of Intent to Purchase Utilizing Low Incidence Funds" which have been signed by the person authorized by the district to approve the request
- A copy of the student's signed IEP/IFSP
- A copy of an assessment completed by personnel knowledgeable of the suspected low incidence disability
- A recommendation for specialized services, materials, and/or equipment that will meet the needs described in the IEP/IFSP
- Catalogue copies of the specialized services, materials, and/or equipment the IEP/IFSP team has requested to have funded through low incidence

The district will log and submit the low incidence packet for review to the West End SELPA. Upon approval from the West End SELPA, the district is responsible for procuring the specialized services, materials, and/or equipment.

Section C – Frequently Asked Questions

1. *May Low Incidence funding be spent in only one of the eligible low incidence disability areas even though all Low Incidence disability students generate income?*

Yes. Although the allocation is generated on a per student basis and must be expended on only students who have a Low Incidence disability, there is no requirement that the funds be spent proportionally on each of the various disability groups consistent with the funds generated.

2. *Is a SELPA or LEA required to use Low Incidence Funding to purchase prescription devices?*

The California State Board of Education has adopted CCR, Title 5, § 3051.12(b)(3)(c), which states in part that "the school district shall not be required to purchase medical equipment for an individual student." Based on this regulation, the CDE has a long-standing practice to encourage the purchase of prescription devices and medical equipment through other funding sources such as private medical insurance or Medi-Cal.

3. *If a student with a low incidence disability within our SELPA for whom we purchased books, materials and equipment with our low incidence funds moves to a different SELPA, are we required to send the books materials and equipment with the student to the new SELPA?*

No. EC § 56836.22 (e) states in part that "it is the intent of the legislature that SELPAs share unused equipment, books and materials with neighboring SELPAs..." However, 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 away. 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

CHAPTER 11 LOW INCIDENCE FUNDING

to share the unused equipment, books and materials. The CDE may be contacted for assistance in locating another SELPA that has need of the unused equipment, books or materials.

4. *Our SELPA has obsolete, unusable books, materials and equipment purchased by low incidence funds. How do we dispose of these things?*

When the low incidence books, materials or equipment are no longer usable, it must be handled in the same manner that books, materials and equipment purchased by state funds other than low incidence is managed.

5. *May we give one of our graduating high school students who has a low incidence disability the specialized equipment purchased for him by our SELPA through low incidence funds so he can use it in college?*

No because a SELPA has a responsibility to use the equipment with other students in the SELPA. If there are no other students in the SELPA that need the piece of equipment, it is to be shared with other SELPAs as needed. Since the student has graduated from high school, he is no longer eligible to receive special education services from a SELPA. If a SELPA no longer has use for the books, equipment or materials the CDE should be notified so that we can find another SELPA that has need of these resources. If the student needs similar equipment in college, he should contact the Department of Rehabilitation who has the legal responsibility to assist in training adults with disabilities.

6. *The parents of one of our graduating high school students with a low incidence disability wish to purchase the specialized equipment from our SELPA that we provided for her use while in our special education program. May we sell it to them?*

No because the equipment should be reassigned to another student in your SELPA, a neighboring SELPA or the CDE should be notified to identify a SELPA that can use the equipment. Even if the equipment is so personalized that it cannot be used by another student, the procedures for disposal of obsolete or unusable property must still be followed, but the parent could then attempt to purchase the equipment at the public auction held by the school.

7. *We have students in our SELPA who have visual perception problems. Does this disability qualify as a visual impairment for low incidence funding?*

No. EC § 56026.5 states "Low incidence disability" means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade twelve. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof. Vision impairments as defined by EC § 56350 (c) do not include a pupil who is eligible for special education and related services based on a specific learning disability within the function of vision which results in visual perceptual or visual motor dysfunction identified pursuant to § 56338.

8. *We have a student who is both severely emotionally disturbed and blind. Will we receive low incidence funding for this student?*

Visual Impairment is one of the severe disabling conditions defined by EC § 56026.5 as a low incidence disability. The language "or any combination thereof" has been interpreted to mean a student is eligible

CHAPTER 11 LOW INCIDENCE FUNDING

for low incidence funding if (s)he has at least one of the low incidence disabling condition regardless of any other disabilities that may also be present. Therefore, a student who has multiple disabilities will generate low incidence funding as long as that student has been reported on the CASEMIS pupil count in either Disability 1 or Disability 2 as either hearing impaired, visually impaired or severely orthopedically impaired. Even though the numbers are taken from Disability 1 and Disability 2, the total statewide student count is an unduplicated count.

9. *What is the criteria for determining if items are "specialized"?*

Items must relate to the unique educational needs resulting from the low incidence disability as indicated in the IEP/IFSP of eligible students. That is, if the general population uses the materials in the course of their education, these materials would not be considered "specialized". Examples include, but are not limited to: ordinary computer systems (including monitors, software, and printers), standard classroom necessary toilet devices, duplication of existing classroom equipment for students or teachers, non-specialized recreation equipment, instructional materials used primarily by teachers, and consumable items (such as blank computer disks, batteries, workbooks, copier supplies, etc.)

10. *Can specialized books, materials, and equipment be shared with other students?*

It is desirable that these specialized books, materials, and equipment be shared by more than one low incidence eligible student. Specialized books, materials, and equipment may be shared with non-eligible students as long as:

1. The low incidence student has first priority for its use;
2. The item remains in the same setting as the low incidence student;
3. The item is transferred with the student if the student moves to another special education program within the SELPA;
4. The item is reassigned for use with another eligible low incidence student within the SELPA when the item is no longer needed by the person for whom it was originally requested;
5. The item is not required for general use with the instructional curriculum. In that case, it would be supplied by special education or general education funds.

11. *Can low incidence books, materials, and equipment be acquired for home use?*

Yes. Specialized books, materials, and equipment may be used by students at home, as well as students in non-public and private schools, when required under the IEP/IFSP. Reasonable care must be provided, however, to prevent damage, loss, or theft. The items remain on the inventory of the SELPA and are the property of the State of California. They are to be returned to the student's school when they are no longer required at home.

12. *Who owns items purchased through low incidence funds?*

When low incidence funds are used to purchase specialized books, materials and equipment, it is extremely important to understand that in all cases, the items are the property of the State of California. Items are to be considered "On Loan" to the students who are qualified by the nature of their disability to access materials purchased with low incidence funds.

CHAPTER 11 LOW INCIDENCE FUNDING

13. Who is responsible for maintaining an inventory of items purchased with low incidence funds?

The SELPA is responsible for keeping a current inventory of low incidence materials and equipment; however, this requires the cooperation of the local education personnel using the materials and equipment with their students. The receiving district must take care to complete the bottom portion of the "Notice of Intent to Purchase Utilizing Low Incidence Funds." WESELPA will send inventory tags back with approved "Notice of Intent ..."paperwork. It is up to the receiving district to tag the equipment and record the number at the bottom of the "Notice of Intent. If the equipment is not purchased, the inventory tag should be returned to the SELPA.

References

EC 56836.22, 56026.5

Chapter 12

STATE SPECIAL SCHOOLS AND SERVICES

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Introduction

California School for the Blind (Fremont) and the California Schools for the Deaf (Riverside and Fremont) were established to provide a comprehensive educational program for students who are in need of extensive specialized services due to impairments in vision and/or hearing. Placement in state special schools pursuant to Education Code Sections 59020 and 59120 is made as a result of recommendations from the student's IEP team, and/or upon a finding that no appropriate placement is available within the local plan area.

According to California Education Code 56326, a student can be referred for further assessment by the California School for the Deaf or Blind. This assessment, however, does not constitute placement in the state special schools. This information, along with other relevant factors, would assist the IEP team in their decision-making process regarding the most appropriate placement for the student.

The Diagnostic Centers (Southern, Central and Northern) are also in the State Special Schools and Services Division, California Department of Education. Under Education Code 56326, the Diagnostic Centers provide assessments and trainings to the school districts in California.

Section A – State Special Schools

CALIFORNIA SCHOOLS FOR THE DEAF

EC 59001 The California School for the Deaf is part of the public school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of the deaf who, because of their severe hearing loss and educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.

CALIFORNIA SCHOOL FOR THE DEAF – RIVERSIDE (CSDR) <http://www.csdr-cde.ca.gov/>

California School for the Deaf, Riverside (CSDR) is a State Special School that serves hearing-impaired students who live in Southern California and are between the ages of three and twenty-one. Both residential and day programs are available for students. CSDR staff members work closely with local school districts to collaborate and provide students who are hard of hearing or deaf with the state adopted curriculum, standards, and pupil performance outcomes.

MISSION STATEMENT:

Students at California School for the Deaf are engaged in a positive environment where ASL and English are valued, cultures are embraced, learning is relevant, and self-worth is uplifted. In collaboration with families and school communities, Southern California students prepare for college and careers through academic rigor, innovative technology, and extra-curricular opportunities.

CORE VALUES

SUPPORT - children becoming balanced bilingual individuals by recognizing the relationships between language development, cognitive development and social/emotional development.

VALUE - and utilize data to ensure ongoing, consistent improvement both for the individual student and the school as a whole.

GROW - professionally as educators who implement standards-based best practices by planning collaboratively with resources and training.

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FOSTER - a physically and emotionally safe learning environment.

RESPECT - families as a vital part of the students' learning, where staff and families work together, and put the good of the student first.

SCHOOLWIDE LEARNER OUTCOMES

COMMUNICATION - Students will effectively communicate opinions, ideas, and information through American Sign Language and English.

COLLABORATION - Students will contribute in shared learning and knowledge as accountable members.

LITERACY - Students will engage in multiple literacies to comprehend and reflect on information for learning and meaningful participation.

CRITICAL THINKING - Students will apply, analyze, synthesize, and evaluate resources to solve complex problems.

COMMUNITY - Students will demonstrate courage, respect, and excellence as they serve within their communities.

WORK ETHIC - Students will take responsibility for their own learning with self-discipline, honor, and integrity.

SCHOOL EDUCATIONAL LOGO



We have a visual expression of our purpose - one that marries our past to our present and sets the course for where we're headed in the future. This bilingual logo, by Deaf professional designer Suzanne Stecker, symbolizes our commitment to you that we'll remain true to our core values as we set our sights on the future.

- The logo shape is an abstract of the ASL handshape "R" in print form for "Riverside."
- The two languages of ASL and English are represented with balance and equality by the two tree trunks. The trees intersect because both languages are used back and forth with clear purpose throughout the day, with ASL as a bridge to learning English.
- The trees grow, as students achieve through this bilingual program, and their cognition, language, literacy, academic performance, and self-esteem thrive.
- Five palm branches at the top of the tree trunks represent the shape of hands signing "CHAMP." Students shall be champions in academics, sports, organizations, career, and life.

Additional information about CSDR is available at <http://www.csdr-cde.ca.gov/>

CALIFORNIA SCHOOL FOR THE BLIND <http://www.csb-cde.ca.gov/>

EC 59101 *The California School for the Blind is a part of the public school system of the state except that it derives no revenue from the State School Fund, and has for its object the education of visually impaired, blind, and deaf-blind pupils who, because of their severe sensory loss and educational needs, cannot be provided an appropriate educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.*

Mission Statement

The California School for the Blind provides intensive, disability-specific educational services to students who have primary learning needs related to their visual impairment. The school serves as a statewide resource to provide expertise to Local Educational Agencies (LEAs) and families in evidenced-based assessment,

Chapter 12 State Special Schools and Services

specialized curriculum, cutting-edge research and technology, and innovative models of instruction that prepare students for adult life.

Vision

In partnership with Local Education Agencies (LEAs), families, students, and community constituents, the California School for the Blind strives to create an atmosphere where high expectations and mutual respect between all staff and students is valued to ensure positive outcomes for academic and life skills success in a technologically-advanced society.

Core Values

The California School for the Blind community believes:

- Students with visual impairments who are enrolled at or receive services and support from the California School for the Blind need to be given the skills necessary to reach their highest potential academically and socially whether through high school graduation or through the acquisition of functional life skills.
- Students need to be exposed to and participate in a wide range of experiential learning opportunities to maximize the potential for academic competence and independence.
- Respect and equity for all individuals in on-campus and in outreach programs supports an atmosphere of empowerment and life-long learning.
- Students deserve an educational environment that maintains high expectations for student performance at all times.
- Students deserve on-going opportunities to prepare for adult life through specialized instruction in career development, independent living skills, assistive technology, and social skills.

Students deserve highly trained and certified professionals who are life-long learners and seek to promote excellence and innovation in every aspect of their work.

REFERRAL TO A STATE SPECIAL SCHOOL

Rationale for State School Referral

- Documentation must exist that no district or county program exists where the student's needs can be met appropriately, even with modifications or,
- Documentation must indicate that district or county staff cannot adequately assess the student's ability, functional levels, and learning potential.

Prerequisites to State School Referral

All local public resources must be investigated and proven inappropriate. IEPs must be implemented and documented. This documentation should include all modifications that have been made in order to help the student be successful in the least restrictive environment.

Referral Process

The following stages represent the process that follows a referral to a state school:

- If all resources and options have been exhausted, the case must be scheduled for a SELPA Level meeting to include the Program Manager or Designee.
- The Program Manager or Designee reviews the file and confers with the referring staff as needed.

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- The Program Manager or Designee confers with the state school staff to determine placement openings, admission procedures for the school, and availability of the school staff to attend the SELPA Level meeting.

SELPA Level IEP Meetings for Possible State School Placement

The IEP team members review all available data relative to assessment, modification to current program, program needs, local program options, and state school programs.

Based on the information presented, the IEP team may recommend any of the following:

- Additional assessment,
- A district or county operated program within the West End SELPA,
- A public program outside the West End SELPA, or
- A state school:
 - a) California School for the Deaf, Riverside, or
 - b) California School for the Blind, Fremont.

Section B – Diagnostic Centers

EC 59201 The diagnostic centers are part of the public school system of the state, except that they derive no funding from the State School Fund. The diagnostic centers provide services, including pupil assessment, consultation, technical assistance, and training, to school districts, country offices of education, and special education local plan areas.

The Diagnostic Centers, which were established nearly 50 years ago, are the California Department of Education's foremost providers of specialized services and assistance to students with special needs, their families, and local educational agencies. The Diagnostic Centers provide high quality assessments to hundreds of students each year and conduct valued training programs for thousands of educators and families across the State of California. The services offered include assessment, technical assistance, transition services, and staff development training.

DIAGNOSTIC CENTER, SOUTHERN CALIFORNIA

The West End SELPA is served by the Diagnostic Center, Southern California, 4339 State University Dr. Los Angeles, CA 90032 Tel: (323) 222-8090 Fax: (323) 222-3018 Website: <http://www.dcs-cde.ca.gov>

Diagnostic Center Service Description

A description of the Diagnostic Center services follows:

1. Assessment services and technical assistance are dynamic, transdisciplinary processes. The Diagnostic Centers utilize expert teams of assessment specialists. A team may include an educational specialist, a language speech and hearing pathologist, a school psychologist, a clinical psychologist, a transition specialist, a pediatrician, or a motor specialist. Assessments are carefully planned and include a dynamic individualized process with educationally relevant diagnostic questions. The outcome is a student profile with a specialized intervention plan that includes strategies and programming options.
 - Assessments and locations vary. A student may have an individual field-based assessment at the local school. The assessment may be given at the Diagnostic Center, or, the student may be assessed at both environments. A group assessment could be a part of a field-based model, which

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would include issues of service delivery, intervention design, behavior, and curriculum as applicable to the group with which the student interacts.

- Parent collaboration is valued and becomes an integral part of the assessment process. Parents assume an active role in the team process through input during the referral, through extensive interviews with the Diagnostic Center's assessment staff, and actually participate during portions of the assessment.
 - At the completion of the individual assessment Diagnostic Center staff meets with parents and LEA staffs to provide findings, provide practical teaching strategies, and plan interventions. This review is accompanied by a comprehensive written report.
 - Implementation of the assessment findings occurs as the Diagnostic Center staff provides technical assistance to the IEP team. Direct support may be provided to the classroom teacher and other support specialists. If requested, staff demonstrates recommended strategies, interventions, or methodologies, as well as assists with development of behavior intervention systems. Additionally, a large selection of resource materials and handouts may be of assistance to the LEA and/or parents for implementation of the ideas and strategies outlined in the report.
2. Transition services and resources for students ages 14-22 with disabilities, their families, and service or care providers. These services facilitate an outcome-driven transition process for the student. Services promote a student focused process based upon student empowerment and informed decisions. Student decisions and family plans lead to meaningful employment and/or adult living that are commensurate with the student's interests, abilities and aptitudes.
- Transition services include: assessment, consultation, training and technical assistance on specific transition issues for school districts, WorkAbility I project, Juvenile Court, Community School programs, and Job Training Partnership Act (JTPA). Formal staff development on various topics related to transition services for special education students is available for LEAs, families, and other service providers.
 - Technical assistance relates assessment to classroom and community instruction. Linkages with other agencies results from development of a plan for coordinated services. Student and parent involvement is promoted during the planning and implementation of the transition process.
3. Staff development is provided through an extensive array of topics. Diagnostic School specialists provide half and full day workshops throughout the state. Many of the presentations are provided through the 12 Regional Coordinating Councils and are scheduled as a part of the council's training plan. Additional times are available for individual SELPAs or districts upon request. Training topics include: behavior, reading, transition, early education, autism, classroom instruction, and other timely and current topics. The Diagnostic Center continues to provide up-to-date information on topics that are current and represent areas of need within the state.

The Referral Process

The decision to refer a student often originates from the student's IEP Team. However, a formal application for admission must be made by the local educational agency and signed by the Director of Special Education. Referrals sent in by parents are not accepted and will be returned.

The application packet takes some time to complete. The local educational agency is responsible for: filling out a detailed form, securing written parental releases for information, submitting all educationally-relevant reports and testing results, and compiling critical student information. The parents must also complete an information packet as part of the application process. **Incomplete referrals will be returned.**

Once the completed application is received, the Diagnostic Center's Admission and Review Committee will do a comprehensive case review of the referral. This will include telephone consultation with the referring administrator, or district contact person. Following case review, the decision to accept or reject the referral will be made.

If the student is not accepted for assessment, the file will be returned with a letter explaining why the case was rejected, and in many cases, suggestions for other agencies or resources which may be better suited to assist the student.

If accepted for either a field-based or center-based assessment, both the district and the parent/guardian will receive written notification. Students are placed on a waiting list in the order in which received. When an appropriate assessment team becomes available, the student will be scheduled. The waiting list varies, depending on the time of the year and other factors, but it is not uncommon for students to wait 3-6 months for a center assessment.

Application packets are not available online. Local educational agency personnel may obtain a packet by calling the Center at (323) 222-8090. We welcome the opportunity to discuss any referral or to clarify any part of the referral process.

Contact Information – State Special Schools and Southern California Diagnostic Center

Further information regarding State Special Schools and the Diagnostic Centers can be obtained from:

Diagnostic Center, Southern California
4339 State University Drive
Los Angeles, CA 90032
(213) 222-8090

Southern California Assessment Center for the Deaf
3044 Horace Street
Riverside, CA 92505
(909) 782-6542

California School for the Blind Assessment Center
500 Walnut Avenue
Fremont, CA 94536
(510) 794-3832

REFERENCES

EC 56326, 59001, 59201

Chapter 13

STUDENT RECORDS

SECTION A STUDENT RECORDS..... 13-2

SECTION B MAINTENANCE OF SPECIAL EDUCATION RECORDS..... 13-5

Introduction

School districts maintain records on all students including students identified with special needs. These records are cumulative and detail the entire school history of the student from the time of first enrollment through graduation or at the completion of their course of study. The information contained within these files include, but not be limited to, the student's family background, medical information, school disciplinary actions, psychological evaluations, intelligence test scores, grades, individualized education programs (IEP's), standardized test scores, and a wide variety of other sensitive information. It is the responsibility of the local school district to ensure the confidentiality, security, and maintenance of all student records according to IDEA 2004, California Education Code, and the Family Educational Rights and Privacy Act (FERPA).

Section A – Student Records

EC 49061 (b) *“Pupil record” means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by an employee in the performance of his/her duties whether recorded by handwriting, print, tapes, film, microfilm and/or other means.*

“Pupil records” does not include informal notes related to a pupil compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdivision, “substitute” means a person who performs the duties of the individual who made the note on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his/her position.

Confidentiality

All student files are confidential and should be stored in a locked and secured location at all times. Access is permitted only to those individuals with a legitimate need. When requested, parents are to be informed of all files on their child and the location of those files.

Access to Student Records

The parents have the right to review their child's file and to receive a copy of the file within five business days of their request. Parental requests for review and/or copies of records must follow the established policies and procedures of the local school district.

Education Code 49069

Parents of currently enrolled or former students have an absolute right to access any and all pupil records related to their children that are maintained by school districts and/or private schools. The editing or withholding of any of those records, except as provided for in this chapter, is prohibited by law.

Each school district should adopt procedures for granting of records requests by parents. Procedures should be in place to provide copies of all pupil records pursuant to Section 49065, and/or to inspect and review records during regular school hours, provided that the requested access is granted no later than five business days following the date of the request. Procedures shall include notification to the parent of the location of all official pupil records, if not centrally located, and the availability of qualified certificated personnel to interpret records, if requested.

CHAPTER 13 STUDENT RECORDS

Based on the Family Educational Rights and Privacy Act (FERPA), access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent.

The following persons or agencies shall have access to student records:

- Natural parents, adoptive parents, or legal guardians of students younger than age eighteen. (Education Code 49061).
- Once a student reaches the age of eighteen or attends a postsecondary school, he/she alone shall exercise these rights and grant consent for the release of records. (Education Code 49061).
- Those so authorized in compliance with a court order. (Education Code 49077) If lawfully possible, the district shall first give the parent or adult student three days' notice, indicating who is requesting and what records they wish to examine (Title 5, Section 435).
- School officials and employees. (Education Code 49076)

Many requests for student records require the consent and/or notification of the parent, but some do not. Requests for student records by school districts or Special Education Local Plan Areas (SELPA's) within the State of California do not require a parent's signature and must be processed within five business days. Requests for student records by San Bernardino County Probation Department, Juvenile Division via a court order may be processed after attempting to advise the parents and/or student of the district's compliance with the court order. Any other requests for records must be accompanied by a release of information that has been signed by a parent and/or adult student, age eighteen or older.

Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or adult student, age eighteen or older. (Education Code 49076)

Persons, agencies, or organizations not afforded access rights may be granted access only through written permission of the parent and/or adult student. (Education Code 49075)

Access Log

EC 49064 *A log or record shall be maintained for each pupil's records which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interest therefore. Such listing **need not** include:*

1. *Parents or pupils to whom access is granted pursuant to EC 49069 or EC 49076(6)(a),*
2. *Parties to whom directory information is released pursuant to ED 49703,*
3. *Parties to whom written consent has been executed by the parent pursuant to EC 49075, and*
4. *School officials or employees having a legitimate educational interest pursuant to EC 49076(1)(a).*

The log or record shall be open to inspection only by a parent and the school official or his/her designee, responsible for the maintenance of pupil records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an educational agency as defined in Public Law 93380, and state educational authorities as a means of auditing the operation of the system.

Access logs are maintained within each individual student file. They are typically located in the front of the student file and may either be stapled to the inside cover or located in the front of the file.

For those employees of the district who have routine access to student files, a list of their names and positions should be clearly posted on the filing cabinet where the files are securely stored. When those not listed

CHAPTER 13 STUDENT RECORDS

review student records, the reviewer is required to state the purpose for the review and sign and date the access log in the student's file.

Request for Records

EC 56504 *The parent shall have the right and opportunity to examine all school records of his/her child and to receive copies pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally, or in writing. The public education agency shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program or any hearing pursuant to Section 300.507 or Sections 300.530 to 300.532, inclusive, of Title 34 of the Code of Federal Regulations or resolution sessions pursuant to Section 300.510 of Title 34 of the code of Federal Regulations and in no case more than five business days after the request is made orally, or in writing. The parent shall have the right to a response from the public education agency to reasonable requests for explanations and interpretations of the records. If any school record includes information on more than one pupil, the parent of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information. A public education agency shall provide a parent, on request of the parent, a list of the types and location of school records collected, maintained, and/or used by the agency. A public education agency may charge no more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive such copy, or copies, the copy or copies shall be reproduced at no cost.*

At the October 8, 2003 Program Advisory Committee (PAC) meeting, program directors agreed when a parent or advocate requests a student's records, the written request would be forwarded to the district or LEA of service with a copy of the request to the district of residence and SELPA Due Process office. The district of service will coordinate the collection, copying, and provision of all records to the parent, attorney, or advocate, as appropriate.

When a new student enrolls within a district, the student's cumulative folder including the special education file will be requested from the previous district by the new district of residence. Utilizing a district Request for Records form, records can be requested from within California without the requirement of a parental signature. When needed, parental signatures should be obtained through a district form authorizing the release of information.

All original records must be sent to and stored in the district special education office, with a copy maintained at the school site in the student's special education file. This includes records of students receiving services through San Bernardino County Superintendent of Schools. The case carrier is responsible for ensuring that these records are properly stored and should work closely with the site secretary to monitor the receipt and storage of records.

Challenging Content of Records

EC 49070 *Following an inspection and review of a pupil's records, the parent or guardian of a pupil or former pupil of a school district may challenge the content of any pupil record.*

(a) *The parent or guardian of a pupil may file a written request with the superintendent of the district to correct or remove any information recorded in the written records concerning his or her child which the parent or guardian alleges to be any of the following:*

CHAPTER 13 STUDENT RECORDS

- (1) *Inaccurate.*
- (2) *An unsubstantiated personal conclusion or inference.*
- (3) *A conclusion or inference outside of the observer's area of competence,*
- (4) *Not based on the personal observation of a named person with the time and place of the observation noted.*
- (5) *Misleading*
- (6) *In violation of the privacy or other rights of the pupil*

(b) *Within 30 days of receipt of a request pursuant to subdivision (a), the superintendent or the superintendent's designee shall meet with the parent or guardian and the certificated employee who recorded the information in question, if any, and if the employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.*

If the superintendent sustains any or all of the allegations, he or she shall order the correction or the removal and destruction of the information. However, in accordance with Section 49066, the superintendent shall not order a pupil's grade to be changed unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

If the superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent or guardian may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

Section B – Maintenance of Special Education Records

Confidentiality

All student files are confidential and should be stored in a locked and secured location. Access is permitted only to those involved with the student. Parents are to be informed of all files on their student and the location of those files, as requested.

All school records in California are divided into three groups for the purpose of defining how long records are kept before they are disposed:

1. **Class I –Permanent or "Mandatory Permanent Pupil Records"**
Records which are maintained in perpetuity and which school schools have been directed to compile by state law, regulation or administrative directive. (5 CCR 430)
2. **Class II – Optional or "Mandatory Interim Pupil Records"**
Records which the school is directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation or administrative directive. (EC 48918.5; 5 CCR 430, 432, 437, 16027)
3. **Class III – Disposable or "Permitted Student Records"**
The only disposable records are Class III and are to be destroyed by "foolproof Methods" so as to maintain the confidentiality of the record. Whenever records are deemed Class III, parents are to be notified in writing. (5 CCR 432,437)

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Retention and Destruction of Student Records

The following mandatory permanent student records shall be kept indefinitely: (5 CCR 432,437)

1. *Legal name of student*
2. *Date, place of birth, and method of verifying birth date*
3. *Sex of student*
4. *Name and address of parent/guardian of minor student*
 - a. *Address of minor student if different from the above*
 - b. *Annual verification of parent/guardian's name address and student's residence*
5. *Entrance and departure date of each school year and for any summer session or extra session*
6. *subjects taken during each year, half-year, summer session or quarter, and marks or credits given*
7. *Verification of or exemption from required immunizations*
8. *Date of high school graduation or equivalent*

Mandatory interim school records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the District. While mandatory interim school records may be destroyed after the third school year following the point at which usefulness has ceased, SBCSS Policy and the Participation Agreement of the Local Plan requires maintenance of special education records and accounts including property, personal and financial records for five years after their usefulness ceases. Such records, as related to special education may include: special education forms, access log, health records, special education test protocols, assessment reports, case studies, and authorizations.

The school district must inform the parent when personally identifiable records are no longer needed to provide educational services to a student. At that time, or at parent request, the student's records may be destroyed. (34CFR 300.573 (a) and (b)) Destruction notices are normally sent at the time of graduation or completion of a course of study. The notice should include the items that are no longer needed and a timeline for destruction or parent retrieval of the information. This option is given to ensure that nonessential information regarding the student's behavior, performance, and abilities are not kept after they are no longer necessary for educational purposes.

Actual test protocols should be maintained in district files, if they are used and cited in the preparation of any disseminated report, they will constitute official school records for legal purposes and are governed in accordance with California Education Code.

SAMPLE GUIDELINES

THE ORGANIZATION OF STUDENT FILES

The original documents go to the District office file. A copy of the documents is kept in the teacher file.

Outer Folder

- Confidential office file is manila folder
- Restraining orders are placed inside of the outer folder while active

IEP Meeting – Green Divider

CHAPTER 13 STUDENT RECORDS

- All paperwork should be filed in date order with the most recent first.
- Log of Access and Request for Access to Student's Records is stapled to the outside of the divider.
- IEPs are stapled together in date order, with the most recent one on top
- Student Management Plans should be stapled to the back of the current IEP
- Transition Plans should be stapled to the back of the current IEP

Psycho-Educational – Pink Divider

- All paperwork should be filed in date order with the most recent first.**
- Psycho-educational reports
- Independent Educational Evaluations completed by a psychologist
- Protocols for each report are placed together directly behind the corresponding report
- California Diagnostic Center evaluations

Health and Development – Blue Divider

- All paperwork should be filed in date order with the most recent first.**
- Most recent list of current medications
- All medical reports
- Initial health and developmental and triennial reports
- Audiological reports
- Vision reports
- Developmental histories
- California Children's Services reports
- Medication forms
- Specialized care plan(s)
- Immunization Records
- Nurse's report(s)

Special Reports – Orange Divider

- All paperwork should be filed in date order with the most recent first.**
- Reports from DIS/related service providers
- Protocols for each report are placed together directly behind the corresponding report
- Independent Educational Evaluations related to DIS/related services
- Inland Regional Center Continuous Notes or I.P.P.'s
- Inland Regional Center evaluations
- Student reports sent in by the teacher
- Student progress summaries
- Reports from other agencies (non-medical)
- California School for the Deaf Riverside (CSDR)

Parent Contact – White Divider

- 1. All paperwork should be filed in date order with the most recent first.**
2. Invitations to IEP conferences and parent responses
3. The Home Language Survey
4. Signed Release of Information forms

CHAPTER 13 STUDENT RECORDS

5. Forms (from the Parent Packet sent yearly) signed by parents
6. Signed Release from Responsibility forms
7. Guardianship forms
8. Assessment Plans
9. Emergency Cards
10. All correspondence to parents

Previous Data and Information – Yellow Divider

11. All paperwork should be filed in date order with the most recent first.

- Bus requests
- Inactive Restraining Orders
- Individual Family Service Plan information
- Inland Regional Center information prior to age 3

References

34 CFR 300.507, 300.510, 300.530, 300.532, 300.573

CCR 16027

Education Code 48918, 49061, 49064, 49065, 49068, 49069, 49070, 49075, 49076, 49077, 49703, 56504

Family Educational Rights and Privacy Act (FERPA)

Government Code, Title I, Division 7, Chapter 3.5, Section 6250

IDEA 2004

Public Law 93380

Title 5, Section 430, 431, 432, 435, 437

Chapter 14

OTHER PUBLIC EDUCATION PROGRAMS

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Introduction

San Bernardino County Superintendent of Schools (SBCSS) offers educational options for students who have been expelled by their local school district, those students ordered to attend by the court or by Probation, or students referred by their district through the School Attendance Review Board (SARB) or other local district process. A description of these public school options is contained within this chapter. Special education students who attend any of these instructional programs receive services in accordance with their IEP. Local school districts may also offer options for alternative education students as approved by their Board of Education. The Countywide Plan for Expelled Students outlines program options available for expelled students.

Section A – Alternative Education

The Student Services Division of San Bernardino County Superintendent of Schools works collaboratively with school districts, community colleges, families, and agencies to provide student-centered educational programs throughout the West End SELPA. Working together in a collegial and professional manner, highly qualified staff supports students' academic, vocational, social, and emotional growth. Students' talents and abilities are strengthened through instruction that focuses on life, employment, and critical thinking skills. Curriculum is aligned with state standards and approved by the Board of Education. While not required to do so, all Alternative Education schools operated by SBCSS are accredited by the Western Association of Schools and Colleges (WASC).

Student Services educational/program objectives include: 1) provide a transitional educational program which allows students to continue to earn credits toward high school graduation regardless of circumstances; 2) provide opportunities for eligible students to take the GED or the CHSPE; 3) provide students with the opportunity to receive a high school diploma in collaboration with local school districts; 4) assist students in developing social skills which will enable students to function successfully in society; and 5) assist students in developing work skills and habits which will enable them to function successfully in the work place.

Section B – Charter Schools

EC 56145 Individuals with exceptional needs attending charter schools pursuant to Part 26.8 (commencing with Section 47600) shall be served in the same manner as individuals with exceptional needs are served in other public schools.

A charter school is a public school and as such is subject to state and federal special education laws and regulations. A charter school may be authorized to operate as part of a LEA, or may itself be an LEA. A charter school must enroll any student who wishes to attend the charter school, subject to their capacity. A student may not be denied admission due to their eligibility for special education or special education needs. A charter school does not have specific geographic boundaries, and once a student has enrolled in a charter school, it no longer matters where the student resides, for purposes of special education the LEA authorizing the charter is responsible for the special education services required by the student.

California public charter schools are required to participate in the statewide assessment test, called the STAR (Standardized Testing and Reporting) program. The law also requires that a public charter school be nonsectarian in its programs, admission policies, employment practices, and all other operations, and

prohibits the conversion of a private school to a charter school. Public charter schools may not charge tuition and may not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.

Section C – Community Day Schools (District-Operated Special Day Classes)

EC 1980 *A county board of education may establish and maintain one or more community schools. If a county board of education does not establish and maintain one or more community schools, the county superintendent of schools shall develop a plan with the governing boards of the school districts in that county to ensure that pupils in that county who need an alternative school placement are served.*

EC 1981 *The county board of education may enroll in community schools any of the following:*

- (a) Pupils who have been expelled from a school district for any reason other than those specified in subdivision (a), (b) or (c) of Section 48915.*
- (b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.*
- (c) Pupils who are probation-referred pursuant to Section 300, 601, 602, and 654 of the Welfare and Institutions Code, pupils who are on probation or parole and who are not in attendance in any school, and who are expelled pursuant to subdivision (a) or (c) of Section 48915.*

AB 922 *authorizes establishment of community day schools (sections 48660-48664). Community Day School may be operated by school districts or by a County Office of Education*

Definition

In 1995 the Legislature enacted two significant bills that responded to the zero tolerance mandate from the general public: AB 922 and SB 966. Among their many provisions, AB 922 (Chapter 974) established Community Day Schools and SB 966 (Chapter 9720) effective July 1, 1996, required a governing board of the school district to provide an educational placement to all students who were expelled pursuant to subdivisions (b) and (e) of Education Code Section 48915. The Countywide Plan for Expelled Students was developed in compliance with requirements of this legislation.

This placement must be in a program of study that can appropriately accommodate referred students, is not provided at a comprehensive school, and is not housed at the school that the student was attending at the time of expulsion. Community Day Schools have the following characteristics:

- They must offer a 360-minute instructional day
- They serve grade spans K-6 and 7-12
- They can be co-located with a regular school, an opportunity school, or a continuation campus only under special circumstances
- They receive tiered incentive funding
- They cannot offer independent study

Although expelled students may be served in a county-operated Community School, many local administrators view district Community Day Schools as an appropriate placement for some, but not

CHAPTER 14 OTHER PUBLIC EDUCATION PROGRAMS

necessarily all expelled students and as an option for providing a structured, well-supervised instructional environment for some students who have not been expelled.

Program Description

The Community Day School Program will provide a comprehensive educational program for at-risk students designed to meet their individual academic and behavioral needs with the intent for them to return to school, graduate, obtain a GED, and/or employment. Alternative strategies include reduced class size, strong emphasis on personal development through a social skills curriculum, career education, and collaboration with other public agencies to provide counseling and support services.

The program components are listed as follows:

- 360 minutes instructional day
- 180 days instructional year plus extended year
- Board of Education approved curriculum aligned with state frameworks, or local district approved curriculum
- Counseling
- Elective curricular offerings
- Specialized assessment

Community School – SBCSS

Definition

County community schools are public schools operated and administered by county offices of education to serve students in grades kindergarten through twelve. County community schools provide educational placement for students who are expelled from their regular schools, referred by a School Attendance Review Board or at the request of the student's parent or guardian, referred by probation (pursuant to the *Welfare and Institutions Code* sections 300, 601, 602, 654), on probation or parole and are not in attendance in any school, or homeless.

When to Access

Community Schools, which are established at the request of school districts, serve students who have been expelled from the schools of the local school district or are referred by the County Probation Department's Juvenile Division.

County community schools offer students an alternative education program that reinforces or reestablishes educational development. The standard minimum school day for county community schools is 240 minutes of instruction; minimum school day for students in attendance in approved vocational education and work experience programs is 180 minutes. California *Education Code* sections that provide for county community schools include sections 1980 through 1986.

Instruction focuses on standards aligned curriculum, active hands-on participation, and individualized instruction. Most students work toward earning credits that will facilitate high school graduation; however, older students who are severely credit deficient, work toward successful GED or CHSPE completion and development of employment skills.

Section D – Court Schools

Definition

County boards of education administer and operate the Juvenile Court Schools authorized by Education Code sections 48645-48645.7. The Student Services Alternative Education Department provides educational programs for students who are wards of the court. Programs offered on the grounds of Juvenile Hall include detention and placement programs.

Students engage in a standards-aligned curriculum enriched with career preparation and computerized instruction.

The County Probation Department works in partnership with Alternative Education staff to ensure that each student has a well-balanced instructional program that teaches and reinforces academic skills, social skills, and employability.

When to Access

Juvenile Court Schools provide an alternative educational program for students who are under the protection or authority of the juvenile court system and are detained in juvenile hall.

How to Access

Students are placed in Juvenile Court Schools when they are referred by the juvenile court.

Section E – Continuation Schools (District Operated)

EC 48430 It is the intent of the Legislature that continuation education schools and classes shall be established and maintained to provide all of the following:

- (1) An opportunity for pupils to complete the required academic courses of instruction to graduate from high school.*
- (2) A program of instruction which emphasizes occupational orientation or a work study schedule and offer intensive guidance services to meet the special needs of pupils.*
- (3) A program designed to meet the educational needs of each pupil, including but not limited to, independent study, regional occupation programs, work study, career counseling, and job placement services as a supplement to classroom instruction.*

Definition

Continuation Education, an educational option for students since 1919, is a high school diploma program designed to meet the needs of students sixteen through eighteen years of age who have not graduated from high school, are not exempt from compulsory school attendance, and deemed at risk of not completing their schooling. Students enrolled in continuation education programs are often credit deficient. Others need a flexible educational environment because they are employed or are having adjustment problems.

For apportionment purposes, a day of attendance in continuation education is 180 minutes. However, many continuation high schools design programs with maximum access to required courses that exceed the minimum daily requirement. In addition to the required academic courses for graduation, the program of instruction must emphasize occupational or career orientation or a work-study schedule. Supplemental programs and services can include, but not be limited to, independent study, ROP programs, career counseling, job placement, and apprenticeships.

CHAPTER 14 OTHER PUBLIC EDUCATION PROGRAMS

When to Access

Continuation Education serves 16-18-year-old students who are subject to state compulsory education laws. Many students are referred involuntarily. Others elect to go to continuation schools because of the available flexible schedules and individualized services. Continuation high schools serve as a major dropout recovery option and a transitional program for students desiring to return to their regular programs.

Section F – Independent Alternative Education

Definition

The goal of the independent study program is to develop in students the highest degree of performance, self-confidence, self-esteem, and motivation while he/she earns credits toward a high school diploma, makes progress toward the next grade level, prepares for the GED or CHSPE, or prepares for employment. Both school districts and county offices of education may operate independent study programs.

When to Access

Students need to show that they can work independently and are motivated to make progress. Academic functioning at the fourth grade level or higher is required to access the county operated independent study program. Board policy states that students must complete sufficient work assigned each week to remain on IAE. County operated IAE primarily serves junior and senior high school students. Under IAE a Master Agreement is developed with input from the student, the supervising teacher and the parent/guardian. This agreement provides for the student's involvement in an alternative learning experience through a course of study aligned to the California State Frameworks. Alternative Education teachers may also provide guidance to students concerning reinstatement procedures to local school districts as well as GED and CHSPE preparation.

References

EC 1980, 1981, 48915, 56145, 56146

Welfare and Institutions Code Sections 300, 601, 602, 654

Chapter 15

NONPUBLIC SCHOOLS AND AGENCIES

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Introduction

Nonpublic school and agency services are provided when the needs of a student are more intensive than can be met in the public school setting. All program options and modifications should be exhausted prior to an IEP team recommending consideration of a nonpublic school or agency placement. This chapter contains information regarding the placement of students with special needs in nonpublic schools and agencies. Guidelines are presented in this chapter for the referral process and how to access these services through a West End SELPA Level IEP meeting held collaboratively with the Local Education Agency (LEA) and family.

Each LEA that contracts with a nonpublic, nonsectarian school shall evaluate the placement of its pupil/s in such schools on at least an annual basis as part of the annual IEP review. The LEA representative shall review the master contract, the individual services agreement, and the IEP to ensure that all services agreed upon and specified in the IEP are provided.

Nonpublic, nonsectarian schools are required by the master contract with the nonpublic school and the IEP to annually evaluate the pupils to determine if they are making appropriate educational progress. The local education agency representative shall collaboratively review with the nonpublic, nonsectarian school the evaluations conducted by the nonpublic, nonsectarian school to ensure that they were appropriate and valid for measuring pupil progress. The local education agency may choose to administer additional assessments as necessary, with parent consent, to determine whether the pupil is making appropriate educational progress.

Section A – Nonpublic Agency Services

EC 56035 *“Nonpublic, nonsectarian agency” means a private, nonsectarian establishment or individual that provides related services necessary for an individual with exceptional needs to benefit educationally from the pupil’s educational program pursuant to an individualized education program and that is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public hospital. The nonpublic, nonsectarian agency shall also meet standards as prescribed by the superintendent and board.*

EC 56366 *It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to district, special education local plan areas, county offices, and parents.*

Nonpublic agency services can be used when the resources available to the WESELPA district staff cannot adequately address the student’s needs. A child may be referred with parent consent to a public or private agency for evaluation. If payment for such diagnostic services is required, the SELPA will process such payment. Reports from these agencies will become a permanent part of the student’s records. Such referrals will be made on an individual case basis and only when the service cannot be provided through public school services available within the West End SELPA.

The SELPA will ensure that the agency meets the following standards:

- The agency has adequately trained personnel to do the diagnostic work
- The agency has appropriate facilities and equipment
- The agency meets local health, fire, and safety standards

Chapter 15 Nonpublic Schools and Agencies

The West End SELPA will consider nonpublic agency services for all students who require such services in order to benefit from their educational program as determined by the IEP team. In order to ensure that the student is being provided such a program within the least restrictive environment, the IEP team shall utilize such nonpublic agency services only after exploring all public school program alternatives. If all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include a SELPA Program Manager or designee and District Special Education Director or representative.

When the IEP Team determines that nonpublic agency services are required, a contract for such services shall be developed and entered into by the SELPA Administrator. Such contracts will be developed only after the parent has agreed to the placement.

The West End SELPA will monitor the progress of pupils in nonpublic agency services. This will consist of evaluating nonpublic agency quarterly reports of student progress on goals and objectives established by the IEP team in written instructional plans and/or reports of nonpublic agency staff and may include observing the student in the home and school program and attending clinic meetings with the NPA.

Every attempt will be made to assure pupil progress so that a pupil may ultimately be able to return to some form of public school program. The Program Manager or designee shall be responsible to monitor the progress of children placed in nonpublic agency programs. The Program Manager or designee shall also act as a liaison between the SELPA and the nonpublic agency in all matters concerning a student's placement.

Individuals with exceptional needs may be enrolled concurrently in both public and nonpublic agency services, provided one is the major enrollment and the other is supplemental. This determination will be made by the Individual Education Program team based upon the educational needs of the student and will be provided only when this arrangement best meets these needs.

Students placed in a nonpublic agency by their parents or guardians may be evaluated for special education eligibility and services by public school staff upon referral in the manner previously described for all students.

After thoroughly reviewing available services, some children with disabilities will need intensive, individualized, and specialized educational services that can only be provided outside public education.

WESELPA Program Specialist Role with Non-Public Agencies

1. As a participating member of the IEP Team, ensure ongoing communication with the district regarding student progress.
2. As a participating member of the IEP Team, review of data summaries and quarterly progress reports.
3. As a participating member of the IEP Team, attend clinic meetings and provide observation of in home or school based program as appropriate and requested by the IEP team.

Rationale for Nonpublic Agency Referral

- Must be documented that there is no available public program that can appropriately meet the student's needs, even with modification.
- Must be documented that no existing contracting agency (CCS, Regional Center) can meet the student's needs appropriately.
- Must be documented that the service is required for the student to benefit from an educational program.
- All public resources must be exhausted and proven inappropriate.

Section B - Nonpublic, Nonsectarian School Services

EC 56034 *"Nonpublic, nonsectarian school" means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program, employs at least one full-time teacher who holds an appropriate credential authorizing special education services, and is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, or a public university or college. A nonpublic nonsectarian school also shall meet standards as prescribed by the superintendent and board.*

EC 56366 *It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to district, special education local plan areas, county offices, and parents*

Nonpublic school services are an instructional component of the WESELPA administrative unit. It is recognized that public schools cannot provide services to meet the needs of all exceptional children. Some children will need such individualized and specialized services as can only be provided outside public education. Nonpublic school services will be provided only when the IEP team determines that no appropriate placement is available in the public schools to meet the individual student's needs.

The SELPA will ensure that the nonpublic school meets the following standards:

- The agency has adequately trained personnel.
- The agency has appropriate facilities and equipment.
- The agency meets local health, fire, and safety standards.

The West End SELPA will consider nonpublic school services for all students who require such services in order to benefit from their educational program as determined by the IEP team. In order to ensure that the student is being provided such a program within the least restrictive environment, the IEP team shall utilize such nonpublic school services only after exploring all public school program alternatives. If all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include a SELPA Program Manager, West End SELPA Program Specialist, or West End SELPA Psychologist and District Special Education Director or representative.

When the IEP Team determines that nonpublic school services are required, a contract for such services shall be developed and entered into by the SELPA Administrator. Such contracts will be developed only after the parent has agreed to the placement.

In most areas, the West End SELPA will monitor the progress of pupils in nonpublic school services. This review will consist of evaluating nonpublic school quarterly reports of student progress on goals and objectives established by the IEP team in written instructional plans, report cards and incident reports.

Every attempt will be made to assure pupil progress so that a pupil may ultimately be able to return to some form of public school program. The WESELPA Program Manager or designee shall be responsible to monitor the progress of children placed in nonpublic school programs. This Program Manager or designee shall also act as a liaison between the SELPA and the nonpublic school in all matters concerning a student's placement.

Chapter 15 Nonpublic Schools and Agencies

Individuals with exceptional needs may be enrolled concurrently in both public and nonpublic school services, provided one is the major enrollment and the other is supplemental. This determination will be made by the WESELPA/Individual Education Program team based upon the educational needs of the exceptional student and will be provided only when this arrangement best meets these needs.

Students placed in nonpublic secondary schools must complete graduation requirements of their districts of residence, which will issue a diploma. Students will be able to participate in their districts' graduation ceremony. Students who are attending non-public school out-of-state and are eligible to graduate from high school can choose to receive a diploma from the state where they are attending non-public school.

Students placed in a nonpublic school by their parents or guardians may be evaluated for special education eligibility and services by public school staff upon referral in the manner previously described for all students.

The West End SELPA will consider nonpublic placement and/or services for all students who require such services in order to benefit from their educational program as determined by the IEP team. In order to ensure that the student is being provided such a program within the least restrictive environment, the IEP team shall utilize such nonpublic school services only after exploring all public school program alternatives.

After thoroughly reviewing available services, some children with disabilities will need intensive, individualized, and specialized educational services that can only be provided outside public education.

Rationale for Nonpublic School Referral

- Must be documented that there is no available public program that can appropriately meet the student's needs, even with modification.
- Must be documented that the Local Education Agency (LEA) attempted supports and services.
- Must be documented the impact of the attempted supports and services.
- Must be documented that no existing contracting agency (CCS, Regional Center) can meet the student's needs appropriately.
- Must be documented that the service is required for the student to benefit from an educational program.
- All public resources must be considered and found to be inappropriate.
- Must have statement on IEP indicating, "Student should be considered for a more restrictive placement." District should not indicate the name of a specific non-public school.

Referral Process for Nonpublic School Consideration

1. If all resources and options have been exhausted, the case must be scheduled for a IEP meeting to include the WESELPA Program Manager, WESELPA Program Specialist, or West End SELPA Psychologist. In order to schedule a meeting, the referring district shall submit the following to the WESELPA Due Process office:
 - Referral for Placement Consideration cover sheet (WESELPA 014) signed by the district office
 - Current IEP with goals and objectives
 - Current psycho-educational report
 - Assessment data supporting a change in placement (observations, academic progress monitoring, behavioral intervention data, FAA, private evaluations)
 - Immunization record
 - Behavior Intervention Plan (BIP),

Chapter 15 Nonpublic Schools and Agencies

- Other agency reports, if applicable
 - Transcripts for high school age students, if on diploma track
 - Vision/Hearing screening
 - Signature required – District director of special education
2. The WESELPA Program Manager, WESELPA Program Specialist, or West End SELPA Psychologist will review the student's file and confer with referring staff as needed.
 3. The WESELPA Program Manager, WESELPA Program Specialist, or West End SELPA Psychologist will confer with appropriate nonpublic schools to determine placement openings, admission procedures, and availability of staff to attend the IEP meeting.
 4. At the IEP meeting, team members will review data relative to assessment, program needs, and appropriate program options, both public and nonpublic.
 5. Based on the information presented, the team may recommend any of the following:
 - Additional assessment, modifications, and/or DIS services.
 - A district or county operated program within the SELPA.
 - A public program outside the SELPA.
 - State schools.
 - Nonpublic schools.

The school District of residence is responsible for coordinating and completing any triennial assessments.

Additional Information

Additional information or questions that have not been adequately addressed in this handbook may be directed to the West End SELPA Due Process office. The phone number is (909) 476-6135. The mailing address is:

8265 Aspen Ave., Suite 200
Rancho Cucamonga, CA 91730

Inquiries may also be directed to the West End SELPA web site at:

<http://weselpa.sbcss.k12.ca.us/> or alternativeservices@sbcss.net

References

EC 56034, 56035, 56366

APPENDIX A –

West End Special Education Local Plan Area
San Bernardino County Superintendent of Schools

REFERRAL FOR PLACEMENT CONSIDERATION

Date: _____

Student's Name: _____ Birth Date: _____

Parent's Name: _____ Sex: _____

Address: _____ Grade: _____

Eligibility: _____

Phone # (_____) _____

School of Residence _____

District of Residence _____

School of Attendance _____

District of Attendance _____

This student is being referred to _____
for consideration of placement in the _____
program.

Student transferred in from _____;

Attended _____ school

Public Non-public

The following documents must be attached:

- Current signed Individualized Education Program (IEP), including BSP if applicable
- Current Initial/Triennial Evaluation
- Assessment data supporting a change in placement (observations, academic progress monitoring, behavioral intervention data, FAA/FBA, private evaluations)
- Special Education Teacher's Report
- Regular Teacher's Report, if applicable
- Designated Instructional Service (DIS) Reports (circle appropriate):
LSH APE Counseling VH AH OH OT PT
- Health/Developmental Report / Immunization Record/Hearing and Vision Screening
- Transcripts for students in grades 9-12, state testing results
- Home Language Survey and CELDT test results, if applicable
- History of counseling services, if applicable

District staff to be contacted to schedule
the IEP meeting:

Director's Signature
(Required)

Chapter 16

PRIVATE SCHOOLS AND SERVICES

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Introduction

The U.S. Department of Education states, "The Department believes that the right of parents to choose where their children should be educated, whether at public or private school, is extremely important. Nevertheless, the rights of parentally-placed private school children with disabilities under Part B are not the same as those of children with disabilities that are enrolled in public schools and are served at public agency programs or public agency placements in private schools." Children with disabilities enrolled in private schools by their parents have no individual entitlement to some or all of the special education services they would receive if enrolled in public school. Districts have an obligation to provide the group of parentally placed private school students with disabilities with equitable participation in the services funded with federal IDEA dollars.

Districts have an obligation for child find to parentally placed private school students. Federal law requires districts to conduct child find activities for private school students that attend private school within the boundaries of the district, regardless of where those children reside. 20 U.S.C.1412(a)(10)(A)(i)(II)

Additionally, Districts have an obligation to consult with private schools located within their boundaries regarding procedures for child find, calculation of the amount of federal funds available for services to parentally placed private school students with disabilities and how, where and by whom special education services will be provided to parentally placed private school students with disabilities. Districts must also report annually, to the State Educational Agency the number of parentally placed private school students assessed, the number found to be eligible under IDEA, and the parentally placed private school students with disabilities provided with services.

Section A – Parentally Placed Students with Disabilities in Private Schools

The following procedures are developed for the school districts within the West End SELPA, San Bernardino County to ensure that school districts:

Locate, identify and evaluate all children ages three through 21* inclusive with disabilities enrolled by their parents in private schools including religious schools, who may be eligible for special education services;

A. Definitions:

Private school children with disabilities: as used in this policy, private school children with disabilities refers to children with disabilities enrolled by their parents in private school based on personal preference or beliefs.

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 private school affidavit.

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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.

Local Educational Agency, ("LEA"): As used in this policy, the Local Educational Agency, LEA, refers to the school district where the private school or facility is located.

Children aged 3-5 are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in 34 C.F.R § 300.13.

B. Consultation

The LEA 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, regarding

1. 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;
2. 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;
3. the consultation process among the local educational agency, 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;
4. how, 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
5. how, if the local educational agency 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 local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

When timely and meaningful consultation as described above has occurred, the LEA 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 LEA shall forward the documentation of the consultation process to the State Educational Agency. A private school official has the right to submit a complaint to the California Department of Education (CDE), if:

1. The LEA's consultation was not meaningful and timely, or
2. The LEA did not give due consideration to the views of the private school official.

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If a complaint is filed:

1. The private school official must provide the basis of the complaint of noncompliance, and
2. The LEA 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.

C. Child Find

1. The West End SELPA will undertake the following child-find activities for private school children ages three through 21 inclusive:
 - a) Consultation with representatives of private school children with disabilities, including private school representatives and representatives of parents 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) Between September 1 and December 1 each year, ask private schools to list all students enrolled in the school who are eligible for special education services, with and without individual service plans, and the district of residence for those children.
2. The West End SELPA will ensure that child-find activities undertaken for private school students are comparable to activities undertaken for children ages three through 21 inclusive with disabilities in public schools. Child-find activities will include dissemination of the special education child find brochure to all private schools in the SELPA and an annual notice in the local newspaper.
3. The cost of Child Find, including individual evaluations, shall not be considered in determining if a district has expended its proportionate share of federal funds.

D. Special Education Referral

1. Private schools will refer students for special education instruction and services when the student is suspected of having a disability. Private school representatives or Parents will direct referrals to the Director of Special Education in the district in which the private school is located.
2. If the child resides in a district outside of the LEA in which the private school is located, the Director of Special Education will request that the Parent sign a release of information to allow the district to exchange information with the district of residence. The Director of Special Education will then notify the district of residence of the referral. For districts participating in the West End SELPA, the district of **location** will conduct the assessment.

E. Initial Individualized Education Program (IEP) Team Meeting

1. The LEA shall convene an initial IEP team meeting to review the results of the assessment and determine eligibility. Representatives of the private school and the district of residence will be invited.
2. If the team determines that a parentally placed private school child is eligible for special education services, the parents will be asked to indicate their interest in enrolling the child in public school.
3. If the parents of a private school child with a disability indicate that they are clearly not interested in enrolling their child in public school, the district of residence will request that the LEA develop an individual service plan. In order to ensure that the parent's intentions are clear, the district of residence shall request that the parents sign the following statement on the form entitled Certification of Parent's Decision Not to Enroll in Public School: "The

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parents of<student's name> hereby certify that we are not interested in enrolling our child in the< district name> School District. We are not interested in the development of an IEP for our child, which would specify the District's offer of a free appropriate public education. We are only interested in a Services Plan from the LEA, the school district where the private school in which we are unilaterally placing our child is located. We have received the West End SELPA's Notice of Parents' Rights, and we understand the notice."

4. 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 IEP team shall develop an IEP for the child.
 - a) If the parents of a private school child with a disability agree with and consent to the IEP developed by the IEP team, the IEP shall be implemented without undue delay following the IEP team meeting.
 - b) 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 their agreement with the following statement on the student's IEP form: "I agree that the District of Residence has offered to my child a free appropriate public education, including appropriate services in special education. However, I am voluntarily placing my child in a private school." The LEA would then develop an individual services plan.
5. The IDEA 2004 regulations require parent consent in order for the LEA and District of Residence to exchange information regarding a parentally placed private school student.

F. Individual Services Plan (ISP)

1. The Individual Services Plan (ISP) will be developed by the district in which the private school is located. Districts within the West End SELPA will use the West End SELPA Individual Services Plan Form. The ISP will specify services that the SELPA has determined in consultation with representatives of private schools, it will make available to parentally placed private school students. The LEA does not have the responsibility to develop an individual services plan if the student's needs do not fall within the scope of services provided to parentally placed private school students with disabilities. 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.
2. A representative of the private school will be invited to attend the ISP meeting. If a representative of the private school cannot attend the meeting, the LEA shall use other means to ensure that the private school representative can participate such as a telephone conference, or written input.
3. The services provided pursuant to the ISP may be at a private school, including a religious school, to the extent consistent with law. The location of the services will be identified in the student's ISP. Service providers must meet the same standards as personnel providing services in the public schools. Service providers will be supervised by the LEA and may be employees of the LEA or contracted employees. The West End SELPA and/or the district shall not use ISP funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.
4. If transportation is necessary for a student to benefit from the services in the ISP, transportation will be provided to and/or from the service. The LEA is not responsible for providing transportation between the student's home and the private school. The cost of

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transportation will be included in the calculation of the LEA's expenditure of its proportionate share of federal funds.

5. Any specialized equipment or materials provided to benefit parentally placed private school students with disabilities shall remain the property of the LEA and must be returned to the district when no longer needed, if the student is no longer enrolled in the private school, or if removal is necessary to avoid unauthorized use.
 6. Pursuant to federal and state law and regulations, the districts within the West End SELPA shall spend a proportionate share of federal funds on providing special education and related services, including direct services to parentally placed private school children ages three through 21 inclusive with disabilities eligible for special education services. If the SELPA does not spend the proportionate share of federal funds for equitable services by the end of the fiscal year, such funds will be carried over to the following fiscal year for such services.
 7. Decisions about the services for parentally placed private school children shall be developed after consulting, in a timely and meaningful way, with representatives of private school children with disabilities, including private school representatives and representatives of parents in order to identify
 - a) Disabling conditions that are served;
 - b) Services provision;
 - c) How and where services will be provided, and
 - d) How services will be documented and evaluated
 8. The services for parentally placed private school students with disabilities shall be reviewed by the West End SELPA by means of a SELPA-wide survey and/or consultation with representatives of private school children ages three through 21 inclusive with disabilities including private school representatives and representatives of parents.
- G. Meetings after the initial IEP meeting
1. The LEA will on an annual basis notify the parents in writing of a meeting to review and revise the services plan.
 2. Three years after an eligible private school child's initial IEP meeting and every three years thereafter, the LEA will notify the parent and the District of Residence in writing that the three-year re-evaluation is due and provide the parent with an assessment plan.
- H. Dispute Resolution
1. When FAPE is not an 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.
 2. No school district 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:
 - a) the school district made a FAPE available to the child, and
 - b) the parents voluntarily elected to place the child in a private school.
 3. Disputes regarding whether a school district made a FAPE available to the child, as well as the initial location, identification and assessment of parentally placed private school children with disabilities, may be resolved pursuant to local policies and procedures and/or by filing a request for due process hearing with the Office of Administrative Hearings.
 4. Disputes regarding the West End SELPA's Children with Disabilities Enrolled by Their Parents in Private Schools policy and procedures may be resolved pursuant to local uniform complaint policies and procedures, and/or by filing a complaint with the California

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Department of Education pursuant to Title 5 of the California Code of Regulations Section 4600 et seq.

I. Certification of Assurances

The West End Annual Service Plan has been adopted at a public hearing held by the special education local plan and notice of this hearing was posted in each school district in the special education local plan area at least 15 days prior to the hearing.

The West End SELPA Superintendents Council is responsible to hold the public hearing.

SECTION B – Calculation of Proportionate Amount of Federal Funds

Procedure for Determining the Proportionate Amount of Federal Funds Available to Serve Parentally Placed Private School Students with Disabilities

Private School Funding Calculation

To calculate the proportionate share that an LEA must spend the following information is needed:

- Total number of eligible parentally placed private school students ages 6 through 21 on June 30 of the prior year
- Total unduplicated pupil count ages 6 through 21 on December 1 of the prior year
- Total Federal IDEA Part B allocation amount for the current school year

Using this information, the proportionate share will be calculated as follows:

Calculations:

$$\frac{\text{Eligible Parentally Placed Private School Students (3-21)}}{\text{Unduplicated Pupil Count (3-21)} + \text{Eligible Parentally Placed Private School Students (3-21)}} \times \text{Federal IDEA Part B 611 Grant (Resource 3310)} = \text{Proportionate Share}$$

Example:

Eligible Parentally Placed Private School Students = 30
 Unduplicated Pupil Count (3-21) = 13,000
 Federal IDEA Part B Section 611 funds = \$18,000,000

$$\frac{30}{13,030} \times \$18,000,000 = \$41,442.82$$

Total Federal funds to be expended based on # of privately placed children = \$ 41, 442.82

APPENDIX A

Individual Service Plan

West End Special Education Local Plan Area • San Bernardino County Superintendent of Schools
Individual Service Plan for Students Enrolled by Their Parents in Private School

Meeting Date: _____

PURPOSE OF MEETING: Initial Meeting Annual Service Plan Review Triennial Review

Student Name: _____ DOB: _____ CA: ___ Grade: ___ Gender: M F

Parent/Guardian/Surrogate: _____

Address: _____ City/State/Zip: _____

Phone: Home:() _____ Work-Mother:() _____ Work-Father:() _____

Private School Name: _____ Contact: _____

Address: _____ City/State/Zip: _____

I agree that the district of residence has offered my child a free and appropriate public education and special education services. However, I am voluntarily placing my child in a private school. Please initial: ___Yes ___No

The district of residence has offered a program of special education services to the student in a public school setting pursuant to an Individual Education Program (IEP), dated _____, designed to provide a free appropriate public education. The parents have declined to enroll their child in public school where special education services are offered in accordance with the IEP. Instead they have placed or continued the enrollment of their child in a private school at their own expense. The parents have been informed that the district of residence has no responsibility for the costs of this placement.

Pursuant to 20 USC 1412(a)(10), the district where the private school is located will provide the following special education service(s) for the student enrolled in private school:

Service(s)	Personnel Responsible	Frequency/Duration	Location

The following individuals have participated in this Individual Service Plan meeting:

Parent/Guardian/Surrogate	Date	Private School Representative	Date
Administrator	Date	Additional Participant/Title	Date
Special Education Teacher/Provider	Date	Additional Participant/Title	Date
General Education Teacher	Date	Additional Participant/Title	Date

Please attach the developed portion of the Individual Education Program (IEP) to this Individual Service Plan.

Notification of Parental Intent

[LETTERHEAD]

[DATE]

[PARENT'S NAME]

[STREET]

[CITY, CALIFORNIA, ZIP]

Re: Private School Student

Dear [PARENT'S NAME]:

Your child has previously been identified as a student eligible for special education; however, you have voluntarily chosen to enroll your child in a private school. Federal laws and regulations require school districts to identify, locate and assess students enrolled in private schools.

The law also requires that districts provide special education and related services to students enrolled in private schools, consistent with their numbers and needs using a proportionate share of federal funding. This obligation is the responsibility of the school district where the private school is located.

Please be advised that your district of residence, continues to make available a free appropriate public education to your child. If you express an interest in enrolling your child in a public school, the school district will develop an IEP for your child. The district will then implement that IEP if and when you enroll your child in a public school. If you choose to continue to enroll your child in private school and the private school your child attends is in the [DISTRICT], we will continue to offer you an Individual Service Plan.

Please inform us of how you intend to proceed with regard to your child by completing the enclosed Notification of Parent Intent form. Thank you for your prompt attention to this inquiry. If you have any questions or need further information, please do not hesitate to contact us at [PHONE NUMBER].

Sincerely,

[Title]

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**Children Eligible for Special Education Enrolled by Their Parents in Private School
Notification of Parent Intent**

Student's Name: _____ DOB: _____

Private School of Attendance: _____

Private School Address: _____

Individual Services Plan (If Private School is located in District's boundaries)

Please select one of the options below:

My child has an Individual Service Plan.

I consent to my child's continued receipt of services as outlined in the Individual Service Plan

I decline my child's continued receipt of services as outlined in the Individual Service Plan

I would like to schedule a meeting to review my child's Individual Service Plan

My child does not have an Individual Service Plan

I would like to schedule a meeting to develop an Individual Service Plan

I am not interested in an Individual Service Plan

Triennial Assessment Review (If Private School is located in District's boundaries)

If the box below is checked, please select one of the options:

Your child is due for a three-year review to determine if they continue to be eligible for special education.

I request a three-year assessment review, please contact me to schedule the assessment.

I decline a three-year assessment review, I understand that my child will not receive services under an Individual Service Plan, if continued eligibility for special education cannot be determined.

Print Name

Signature

Date

IDEA 2004

Private School Students With Disabilities



weselpa.sbcss.k12.ca.us

“A Partnership Dedicated
to Education”

Para información en español,
Llamar al teléfono 909-481-4547 ext. 253

Consultation

IDEA 2004 requires that Local Education Agencies (school districts) consult with private schools in their geographic region to design and develop special education and related services for students who are placed in private schools by their parents.

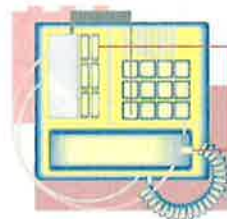
The consultation is a conversation among private school representatives, representatives of parents of children with disabilities that have placed their child in a private school, and representation from Local Education Agencies.

The topics for consultation include the procedures for Child Find and the federal funding available to children with disabilities placed in private schools for services and the provision of special education and related services. This includes types of services, how services will be provided, when and where they will be provided, and by whom they will be provided. Consultation is meant to be an ongoing dialogue amount Local Education Agencies and private schools.

Note

Students affected by this portion of IDEA 2004 will receive a Service Plan, which outlines the type of service, if any, available to students enrolled in private schools.

For further information, contact the school district where the child's private school is located. Questions may also be directed to the SELPA Administrator at the West End SELPA at (909) 481-4547 ext 255.



Background

In 2004, the revised Individuals with Disabilities Education Improvement Act (IDEA) was signed into law by the President of the United States. Several changes were made from the Individuals with Disabilities Education Act (IDEA) that was enacted in 1997.

Some of the Changes include:

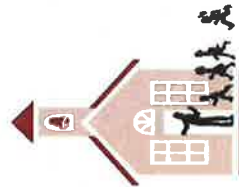
- Designation of the school district in which the private school is located as the responsible agency for the assessment and eligibility determination of children with disabilities;
- A requirement that a proportionate amount of federal funds be expended for students with disabilities; and
- The requirement that school districts consult with private school representatives in the design and development of special education services for children with disabilities in private school.

The information contained in this brochure refers to children who are enrolled in private schools when there is not a dispute with the parent about the appropriateness of the public school district's proposed program.

Child Find

All school districts have a responsibility to conduct Child Find. The purpose of Child Find is to ensure that all children with disabilities placed in private schools are identified, located, and evaluated through a practical method to determine which children with disabilities are receiving the special education services that are needed.

Any parents of children who are attending private schools and/or private school staff that suspect a child has a disability should contact the school district in which the private school is located for information regarding assessment to determine eligibility for special education services.



Equitable Services

In general, districts must spend a proportionate share of federal funds to children with disabilities who are placed in private schools by their parents.

The services provided to children can be direct or indirect services and can be provided at the private school, including religious schools. These services can be delivered by employees of the school district or through contracts with public agency individuals, associations, or organizations. It is the responsibility of the school district in which the private school is located to provide the services that are agreed upon during the consultation process.

Services must be secular, neutral, and non-ideological, including materials and equipment.

Children with disabilities placed in private schools do not have an individual right to a free and appropriate public education (FAPE).

APPENDIX B

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.
- 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.

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- 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.

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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?

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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

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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?

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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/special/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*.)

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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

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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

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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

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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?

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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

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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).

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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

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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 service 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

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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.

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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

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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

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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

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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?

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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

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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.

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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.

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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

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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

Chapter 17

Alternative Dispute Resolution

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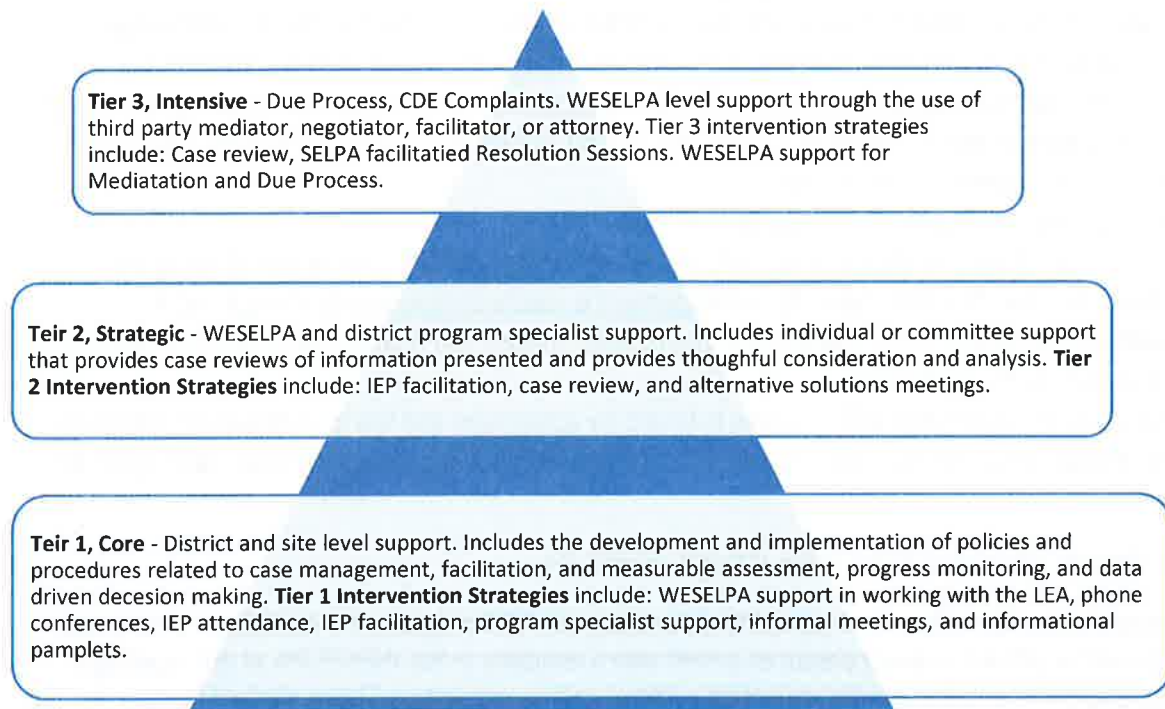
Introduction

Disagreements and conflicts in special education are inevitable in a complex procedural and educational programming process as defined by Individuals with Disabilities Education Act (IDEA) 2004. Consequently, there are informal, structured approaches, referred to as Alternative Dispute Resolution (ADR), and formal, litigated approaches known as due process procedures in place to aide in the resolution of such conflicts.

It is the collective belief of the Local Education Agencies (LEA) within the West End Special Education Local Planning Area (WESELPA) that every attempt should be made to resolve conflict through the structured informal processes at the local level. Alternative Dispute Resolution offers dedicated, invested parties the opportunity to resolve disputed issues collaboratively with the likelihood that the resulting agreement will improve relationships and maximize the academic programming for the student involved. The WESELPA provides several services to the LEAs and families it serves. The use of ADR is voluntary and is not intended to impede the Individualized Education Plan (IEP) process.

All approaches to dispute resolution described in the following text, from least to most intensive, are confidential.

SECTION A – WESELPA Pyramid of Interventions



SECTION B – Local Resolution

When issues arise between families and the LEA, and the parties cannot reach agreement, there are several methods that may be employed to resolve the issues and preserve the working relationship.

Families are encouraged to:

1. Speak to the classroom teacher/case carrier and related service providers to resolve classroom issues.
2. Speak to the site administrator regarding school or personnel issues.
3. Speak to the psychologist or program specialist designated to serve the school site regarding behavior, placement, and programming issues.
4. Request an IEP, if appropriate, to discuss issues that should be address by the IEP team in its entirety.
5. Contact your LEA Special Education Coordinator or Director.
6. Contact the WESELPA for information regarding ADR and /or to begin the ADR process.

SECTION C - Alternative Dispute Resolution – Tier 1

Parents are encouraged to use ADR for the following purposes:

1. The ADR process is typically more productive than formal Due Process. Commonly, a Due Process decision/resolution is dictated by the Office of Administrative Hearings (OAH) judge without regard for relationship between the parties. Thus, parties have less control over the outcome. Similar, less productive results, can be expected if a hearing officer is assigned through the mediation process. The ADR process affords the parties the opportunity to work collaboratively and improve working relationships.
2. ADR options are provided a no cost to the family.
3. Formal state level Due Process has a 45-day timeline. Use of ADR options do not delay the timeline for Due Process. Typically, an agreement is reached more rapidly through ADR.
4. Meetings are held at a site agreeable to both parties making the process more comfortable and convenient to the participants.
5. Everyone involved in the ADR process is bound by agreement and law to maintain confidentiality, which often supports more open communication resulting in superior educational planning for the child.

Alternative Dispute Resolution Approaches through WESELPA

Informational Pamphlets (Tier 1): A pamphlet describing the ADR program, the continuum of services and process will be offered to every parent of a child with a disability in the WESELPA at IEP meetings, when a new student enters the special education system, and as requested. These pamphlets describe the ADR program components and are included with the Notice of Procedural Safeguards. Additional pamphlets are available that describe the various components of the ADR program in greater detail.

Informal meetings (Tier 1): When a concern surfaces around any special education student, one method of resolution may be an informal meeting between the parent and their child's teacher. If the results of the meeting are not satisfactory to either or both parties, the site administrator, district special education

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administrator, or both may be invited to meet with the parent(s). A parent may be accompanied by a person who can help support and inform the parent(s) as to their rights, responsibilities, and the ADR process.

IEP meetings (Tier 1): An IEP meeting may be held to clearly identify areas of concern and to attempt to reach solutions with the IEP team. As stated in the law, parents or educational staff may request an IEP at any time. Another option is an IEP facilitated by a WESELPA Program Specialist or a WESELPA ADR facilitator.

Program Specialists (Tier 1): At any time during the dispute process, parents and/or school staff may request a WESELPA Program Specialist to review programmatic issues. Program Specialists are knowledgeable of the variety of programs and services in special education and are charged with supporting the operation of special education programs throughout the SELPA. The Program Specialists recommendations may be brought to the IEP team in an attempt to resolve the concerns. In addition, in coordination with the IEP team, a Program Specialist can provide technical support, IEP facilitation, additional observation and data collection, as well as staff development training.

WESELPA Intake Coordinator (Tier 1): ADR Intakes are encouraged by the WESELPA and the California Department of Education (CDE). ADR Intakes can be in the form of a phone call, written letter, written notice from the Procedural Safeguards Referral Services with the CDE. The WESELPA Intake Coordinator is trained to utilize a variety of strategies to resolve the issue and is available to both families and district staff to assist with the ADR process. During intake, all concerns are heard and support is provided to both the LEA and the family in identifying problems and conflicts. Alternative Dispute Resolution options are discussed and follow up is provided. The ADR process allows both parties to build relationships and is the first step in a positive resolution so that matters do not escalate into a potential complaint or due process.

The WESELPA Intake Coordinator contact information: Phone: (909) 476-6135

Email: alternativesolutions@sbcoss.net

IEP Facilitation (Tier 1 or 2): This process offers a choice that includes a facilitator to guide the IEP team meeting, including pre-meeting preparation through follow-up tasks. As a part of the process, there is a neutral facilitator who clarifies the agenda, discusses possible meeting outcomes, enforces working agreements, keeps the group focused on the IEP process, encourages problem solving, monitors time and encourages participation by all members of the IEP team. Additionally, there is a note taker who records key ideas and information, asks for clarification and makes corrections while maintaining a neutral perspective. The outcome of the facilitated IEP is an IEP that has been developed collaboratively between the family and LEA staff. The WESELPA Facilitator is not a decision-making member of the IEP team.

The WESELPA IEP Facilitation contact information: Phone: (909) 476-6135

Email: alternativesolutions@sbcoss.net

SECTION D – Alternative Dispute Resolution – Tier 2

Alternative Solutions Meeting (ASM) Tier 2: The Alternative Solutions Meeting (ASM) is commonly referred to as an ADR. An ASM is a problem-solving process that bring parties in dispute together, guided by a neutral facilitator, usually the Alternative Services Unit (ASU) Program Specialist or ASU Program Manager. The facilitator is neutral and assists the parties in reaching a mutually satisfying solution/agreement. When agreement is reached, the specifics are often put into writing in the form of a Settlement Agreement and signed by all parties. An ASM may be held prior to or following a Due Process request. An ASM may be requested whether either party has filed a Compliance Complaint or request for a Due Process hearing.

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The ASM role in Due Process: An ASM is a requirement of IDEA 2004 and must be scheduled within 15 days of district receipt of a filing for Due Process. This meeting provides the opportunity for discussion and clarification of issues with both the school and family and includes a neutral facilitator.

The WESELPA Program Manager contact information: Phone: (909) 476-6135

Email: alternativesolutions@sbcss.net

SECTION E – Compliance Complaint – Tier 3

Compliance Complaint (Tier 3): A Compliance Complaint may be filed by a parent when they allege that the district has violated education code.

Examples of a compliance complaint include the following:

1. Change of placement without an IEP.
2. Failure to respond to a parent's request to review a student's records.
3. Failure to meet timelines.

The CDE must resolve the Complaint within 60 days unless an extension is granted under special circumstances. The LEA will have 10 days after a complaint has been received to resolve the problem at the local level. The CDE will investigate all complaints that are not resolved. A written decision will be provided by the CDE as well as procedures for the implementation of the decision. Thirty days after the timeline for corrective action, the CDE's Focused Monitoring Technical Assistance Unit contacts the complainant to confirm that the complaint has been resolved.

CDE "Compliance Complaint" Form: <http://cde.ca.gov/sp/se/ga/documents/cmplintinvsrqst.doc>

Filing a written complaint:

CDE
Special Education Division
Procedural Safeguards Referral Service
1430 N. Street, Suite 2401
Sacramento, California 95814
Phone: (800) 926-0648
Fax: (916) 327-3704

Families will receive support with the process by the WESELPA, if necessary.

Mediation/Administrative Hearing (Tier 3): Parents may seek resolution through mediation prior to filing a request for a due process hearing. Mediation only is a formal proceeding conducted by an administrative law judge in a non-adversarial manner to resolve issues related to the identification, assessment or educational placement of a child or the provision of Free and Appropriate Education (FAPE).

A mediation date will be scheduled by OAH. At that time, the parent or the school district may be accompanied and advised by non-attorney representatives and may consult with an attorney prior to or following the conference. Requesting or participating in a mediation only is not a prerequisite to requesting due process hearing.

All requests for a mediation only shall be filed with the Office of Administrative Hearings (OAH). The party initiating mediation only by filing a written request with OAH shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

Mediation only shall be conducted within fifteen days of receipt by the OAH of the request for mediation and shall be completed within thirty days after receipt of the request for mediation unless both parties agree to extend the time. If resolution is reached, the parties shall execute a legally binding written agreement that

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sets forth the resolution. All discussions during the mediation process shall be confidential. Mediation only shall be scheduled in a timely manner and held at a time and place reasonably convenient to both parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested Mediation only has the option of filing for due process.

Mediation Only Request Form: <https://www.documents.dgs.ca.gov/oah/SE/Forms/OAH%2063.pdf>

Understanding Special Education Due Process Hearing; Provided by the Office of Administrative Hearings: <https://www.documents.dgs.ca.gov/oah/SE/SE%20Guide%20to%20understanding%20DPH.pdf>

Families will receive support with the process by the WESELPA, if necessary.

Due Process Procedures (Tier 3): Due Process ensures that both the LEA and parents are provided procedural safeguards to resolve disagreements relative to the appropriateness of the special education services offered.

Issues that may be considered under the Due Process hearing procedure include:

1. Identification.
2. Evaluation/assessment.
3. Educational Placement.
4. Provision of Free and Appropriate Public Education (FAPE).

Either the LEA or family may submit a written request to the State Office of Administrative Hearings (OAH) for a due process hearing. A copy of the request must be provided to the other party at the time the request is initiated.

Due Process Sequence of Events

1. Parent/District files Due Process Complaint with Office of Administrative Hearings (OAH)
2. OAH
 - a. Assigns case #
 - b. Assigns mediator
 - c. Sets mediation and hearing dates
3. Resolution Meeting must be held within 15 days of the date the district receives the parent's due process request (unless waived in writing by both parties) (Note: If the LEA files the case, a Resolution Meeting may be passed and the case goes directly to Mediation)
 - a. If parent wants their attorney or advocate at the meeting, district may decide to have their attorney attend
 - b. If not, then district and parent meet without legal representatives (A Resolution Meeting is designed to not have attorneys present, but parent have the right to have their attorney attend)
 - c. Possible Outcomes: Settled at no cost, services provided, attorney fees (but not for attendance at the Resolution meeting), parent reimbursement, full agreement and settlement of all issues, interim agreement of some issues pending further action, no agreement. as written on a settlement agreement.
4. If there is no settlement at Resolution, case proceeds to Mediation. Mediation is voluntary. (Note: If a settlement is reached, partially reached or not reached, the results are reported to OAH)
 - a. Includes OAH Administrative Law Judge (ALJ) as mediator, district representative,

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- parents, and parent attorney or advocate (if parent is represented). (Attorney optional for district)
 - b. If case is settled in Mediation; Parties sign a legally binding settlement agreement. and report results to OAH
 - c. Possible outcomes: same as resolution
5. If there is no settlement at Mediation, case proceeds to Hearing
- a. State level; attorneys optional for both parties
 - b. ALJ presides and conducts both Pre-Hearing Conference and Hearing (Hearings can run from 4 to 30 days – no limit on Hearing days)
 - c. ALJ renders a legally binding decision to resolve the dispute.
6. Hearing decisions can be appealed at the federal level; attorneys are required for both parties at this point.
7. CIVIL SUIT
- Parent attorneys can also file a civil suit in the local court system for any dollar amount they deem appropriate. Other reasons include if a district fails to pay a monetary award or fails to implement services ordered by a Hearing decision. Civil suits can also be filed if a parent or their attorney believes a district has retaliated against a student or has slandered the parent, student or their attorney. Civil suits can be brought against a school district or county schools office and/or any individual working for a school district or county school's office (i.e., superintendents, special education directors, SELPA administrators, teachers, etc.).

Parental Rights and Procedural Safeguards at a Due Process hearing include, but are not limited to, the following:

1. The right to examine and receive copies of any documents contained in the student's educational records.
2. The right to have the student present at the hearing.
3. The right to be accompanied at the hearing by a representative(s) of the parents choosing.
4. The right to open the hearing to the public.

All evidence and lists of witnesses are exchanged by the parent and the LEA five days prior to the hearing. Hearing proceedings are recorded verbatim and both parties have access to the recordings. The hearing officer admits relevant evidence and all testimony under oath.

The decision is written and mailed to both parties. Both parties are given notice of their rights and explanation of the procedures to appeal the hearing decision to a court of competent jurisdiction.

During the due process procedures, including the actual state level hearing, the student remains in their present placement (stay put) unless the LEA and the parent agree to an alternative placement. However, certain expulsion/disciplinary conditions do exist in education code.

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Filing for Due Process: Parents are encouraged to ask for state mediation only prior to a hearing. Mediation is designed not to slow the resolution of the issues but to help the resolution of issues in a manner less formal than a hearing. Parents may obtain a request for mediation/due process form from:

Office of Administrative Hearing
Special Education Division
2349 Gateway Oaks, Ste. 200
Sacramento, California 95833-4231
Phone: (916) 263-0880
Fax: (916) 263-0890

Understanding Special Education Due Process Hearing; Provided by the Office of Administrative Hearings:

<https://www.documents.dgs.ca.gov/oah/SE/SE%20Guide%20to%20understanding%20DPH.pdf>

Request for Mediation Only and Due Process Form:

<https://www.documents.dgs.ca.gov/dgs/fmc/dgs/oah038.pdf>

Families will receive support with the process by the WESELPA, if necessary.

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B	Parent Referrals	6164.4	
C	Student Study Team	6164.4	
D	Interim Placement	6159	6164.4: Child Find; Identification and Evaluation of Individuals for Special Education; Eligibility/Annual/Triennial Assessment
AA	Appendix A Sp Ed Process Timetable		6164.41: Children with Disabilities Enrolled by Their Parents in Private Schools
	Summary of Major Sp Ed timelines	6164.4 6159	
CHAPTER 2 - EVALUATION AND ASSESSMENT			
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C	English Language Learner	6164.4, 6159.1	6159: Individualized Education Program and Individualized Service Plan/Least Restrictive Environment/Part C Transition
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G	Independent Educational Evals	6159.8, 6164.4	6159.8: Independent Educational Evaluation
AA	Appendix A Lozano Smith Attorneys At Law opinion letter entitled: Propriety of Administering I.Q. Test to African-American Students		
AB	Appendix B Qualifications of Evaluators		6164.41: Children with Disabilities Enrolled by Their Parents in Private Schools

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D	Dismissal from Special Education	6163.2, 5141.24	
AA	Appendix A Form Letters for Use When students exit Special Education		5151.24: Specialized Health Care Services
AB	Appendix B Specific Learning Disability discrepancy documentation form		6159: Individualized Education Program and Individualized Service Plan/Least Restrictive Environment/Part C Transition
AC	Appendix C Prior Written Notice Due to Parent Revocation of Consent for Special Education		6163.2: Service Animals and Animals at School
			6164.4: Child Find; Identification and Evaluation of Individuals for Special Education; Eligibility/Annual/Triennial Assessment
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C	Culturally/Linguistically Diverse STs	6164.4	
D	Teaching/Assessing ELD/ELA Stds	6164.4	6164.4: Child Find; Identification and Evaluation of Individuals for
E	Linguistically Appropriate G&O - ELD	6159	Special Education; Eligibility/Annual/Triennial Assessment
AA	Appendix A Q&A on IEPs, Evaluations and Re-Evaluations		
CHAPTER 5 - SUPPORTS AND SERVICES -- A CONTINUUM OF OPTIONS			
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A	LRE - Continuum of Svcs/Placement	6159, 0430	0430: Comprehensive Local Plan for Special Education 6159: Individualized Education Program and Individualized Service Plan/Least Restrictive Environment/Part C Transition
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B	Related Services	0430	
C	Assistive Technology	6159	
AA	Appendix A Guideline Statement -- LRE	6159	
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B	IEP Meeting Options	3515.5. 6159.8	

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B	Interagency Agreements	0430, 0430.5	
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AA	Appendix A Quick Reference - WAI Services		
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D	Behavioral Emergency Procedures	6159.4	
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AA	Appendix A Behavioral Intervention Plan Forms Functional Behavior Assmt Forms Behavioral Emergency Forms		
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B	Manifestation Determination	6159, 6159.2	
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D	Court Schools	0430	
E	Continuation Schools	0430	6159: Individualized Education Program and Individualized Service Plan/Least Restrictive Environment/Part C Transition
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	Referral for Placement consideration form		6159.2: Nonpublic, Nonsectarian School and Agency Services for Special Education 6164.4: Child Find; Identification and Evaluation of Individuals for Special Education; Eligibility/Annual/Triennial Assessment
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AA	Appendix A Individual Service Plan		0430: Comprehensive Local Plan for Special Education
AB	Appendix B Q&As on Serving Children with disabilities placed by their parents at private schools (Rev. April 2011) Appendix C Q&As on Serving Children with disabilities placed by their parents at private schools (Rev. Jan. 2007)		
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			5144.2: Suspension/Expulsion 6159: Individualized Education Program and Individualized Service Plan/Least Restrictive Environment/Part C Transition 6159.1: Procedural Safeguards; Complaints for Special Education;

