



Humboldt-Del Norte
SELPA
Special Education Local Plan Area

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Humboldt-Del Norte SELPA

Special Education Procedural Manual

Humboldt – Del Norte Special Education Local Plan Area

Introduction to SELPA Procedural Manual

The members of Humboldt – Del Norte Special Education Local Plan Area (SELPA) are committed to meeting the needs of students, their parents, and the staff. In order to implement this goal, the SELPA Procedural Manual describes policies, procedures, and guidelines in place to ensure that students being referred for and/or enrolled in special education program services receive a free, appropriate public education (FAPE) in the least restrictive environment (LRE).

The SELPA Procedural Manual is organized into topics. Each topic is outlined by the Definition, Legal Requirements, Legal References, Timelines, Local Procedures and Frequently Asked Questions. For some topics, repetition may occur in Legal Requirements and Local Procedures. However, it is vital that all sections are read and understood in a given topic for the application of Legal Requirements is often explained in the Local Procedures section.

The Humboldt – Del Norte SELPA Procedural Manual is available to members in our SELPA via our website at <http://www.hdn.org> and/or in the SELPA office.

Acknowledgements

Acknowledgments to the educators who contributed their time and expertise to the Humboldt – Del Norte SELPA’s Special Education Procedural Manual. The team of professionals represented a cross section of districts through the SELPA. Information provided in this manual has been modified from a variety of sources including Butte County SELPA, Riverside SELPA, as state and local policies.

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Superintendent’s Special Education Policy Council Approved: January 18, 2018

Local Education Agency Members

The following local education agencies (LEAs) are members of the Humboldt – Del Norte Special Education Local Plan Area (SELPA).

Arcata School District	Big Lagoon Union School District
Blue Lake Union School District	Bridgeville School District
Cuddeback Union School District	Cutten School District
Del Norte Unified School District	Eureka City Schools
Ferndale Unified School District	Fieldbrook School District
Fortuna Elementary School District	Fortuna Union High School District
Freshwater School District	Garfield School District
Green Point School District	Hydesville School District
Jacoby Creek School District	Klamath – Trinity Joint Unified School District
Kneeland School District	Loleta Union School District
Maple Creek School District	Mattole Unified School District
McKinleyville Union School District	Northern Humboldt Unified High School District
Orick School District	Pacific Union School District
Peninsula Union School District	Rio Dell School District
Scotia Union School District	South Bay Union School District
Southern Humboldt Unified School District	Trinidad Union School District

SELPA Staff

SELPA staff provides support to school districts, families, and agencies to assure full education opportunities for children with disabilities. SELPA staff members can be reached via telephone (707) 441-2051.

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SECTION I

SPECIAL EDUCATION REFERRAL, ASSESSMENTS & PROGRAM OPTIONS

REFERRAL FOR SPECIAL EDUCATION

“Referral for Assessment” means any written request for assessment to identify a student with a disability made by any of the following:

- A parent, guardian, or educational rights holder of the student.
- A teacher or other service provider of the student.
- A foster parent of the student, consistent with the limitations contained in federal law.

Ordinarily, the term ‘referral’ pertains to the initial referral to assess a student to determine if he/she has a disability and is in need of special education services. But, the term also pertains to any request for an assessment, even an assessment for a student who is already identified and has an IEP. The term is also used in other contexts, such as a referral to the Occupational Therapist, Psychologist, Behaviorist, etc.

It is important to clarify when and how to use the term ‘referral’ because an official referral initiates a legal timeline and a host of associated responsibilities for special education personnel.

Legal Requirements

All student with disabilities residing in the state, including students who are homeless or wards of the state and students attending private schools, who are in need of special education and related services, shall be identified, located and assessed (“Child Find Obligation”). Each SELPA shall establish written policies and procedures for initiating a referral for assessment to determine if as student is eligible and in need of special education services. Identification procedures shall include systematic methods of utilizing referrals of students from teachers, parents, agencies, appropriate professionals and from other members of the public. A student shall be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.

All referrals shall initiate the development of an assessment process and shall be documented. In most situations, an initial referral for special education will result in an assessment plan to assess the student for special education eligibility. When a verbal referral is made, staff shall assist the individual in making the request in writing. All referrals made by school staff shall be written and include a brief reason for the referral and documentation of the resources of the general education program that have been considered, modified, and, when appropriate, the results of the intervention.

Exception – An individual, aged 18 through 21, who, in the educational placement prior to his or her incarceration in an adult correctional facility, was not identified as student with a disability OR did not have an IEP is not entitled to a free appropriate public education (FAPE). See section “Local Procedures: Incarcerated Adults” for exceptions.

Legal References

EC 56029; EC 56040; EC 56043; EC 56301; EC 56302; EC 56303; EC 56321; EC 56326
CCR Title 5 § 3021; 3021.1; 3025 CDE Item # 1-1-4.1; 2-1-1.1

Timelines

The date that the district/local education agency (LEA) receives a referral for a special education evaluation initiates the IEP assessment timeline. The school has 15 calendar days from the date of receipt of referral to present the parent(s) with either an assessment plan or send prior written notice declining to assess. The assessment plan should be accompanied by a notice of procedural safeguards and should be in the parent's native language. Once the parent receives the assessment plan, the parent has 15 calendar days to sign the assessment plan and grant or deny consent for the assessment. Once the assessment plan has been received by the district, the IEP team has 60 calendar days to complete the assessment and hold an IEP team meeting to discuss the findings.

Local Procedures

Infants

Service for infants with low incidence disabilities is provided through an agreement with the Local Education Authority (LEA) and Humboldt County Office of Education and the Del Norte County Office of Education. Service for all other infants is provided by the Redwood Coast Regional Center. The SELPA office will have information regarding referral procedures to both of these agencies. Once the referral has been received by the district, the IEP team has 45 days to complete the assessment and hold an IEP team meeting to discuss the findings.

Preschool Students

1. Parent Referrals – Parents should contact either the district of residence (DOR) of the preschool student or the County Office of Education in order to make a referral for their student.
2. Referrals from Preschools (i.e., Head Start, State Preschool, private preschools, etc.) – Prior to referring a student for a special education evaluation, local preschools are encouraged to initiate the Student Study team process. Some districts may refer to this process with a different term, for example Student Success team or School Based Intervention team. Preschools should consult with and, when appropriate, invite the DOR special education administrator for preschool programs to attend student study team meetings prior to referral.
3. Referrals from Day Care Centers – Concerned individuals should encourage parents to initiate the referral process. Representatives from day care centers may, however, contact the DOR to make a referral.
4. Referrals from Regional Centers – Student currently eligible for services from a Regional Center will be referred by the serving Regional Center to the DOR prior to their third birthday.
5. Local Procedures: School Age Students (Ages 5 through 18)
6. Parent/Agency Referrals – Parents/agencies should contact the designated special education representative at their neighborhood school when making a referral for special education. If the person making the referral is making the referral orally, the school should explain the requirement for referrals to be made in writing and assist them in this process. Once the school receives a written request, the school must, within 15 calendar days, present an assessment plan to the parent or provides the parent with Prior Written Notice (PWN) denying the request. (See the section on prior written notice (PWN) for further information). The school is encouraged to hold a student study team meeting in the 15 calendar days following a referral to develop a comprehensive assessment plan, as necessary. If the student study team does not believe assessment is necessary at that time, the parent/guardian can revoke the request to assess in writing.
7. Referrals from School Staff – School staff should convene a student study team meeting in the event they believe the student could use additional supports in the classroom. If, following the

meeting, the school staff wishes to complete a referral for special education, he/she should do so in writing using the appropriate form. When special education staff request further assessment of an identified student with a disability, they should convene an IEP meeting to discuss recommended assessment/s.

Adult Students (Ages 19 – 21)

Unless the student was enrolled in or eligible for a special education program prior to his/her nineteenth birthday, the district is not obligated to accept referrals for these students. The SELPA recommends that districts do not accept these referrals because the law does not consider the “students with a disability” and funding is not provided for those students.

Incarcerated Adults

The laws state that individuals between the ages of 18-21 who are incarcerated in an adult correctional facility are not entitled to a free appropriate public education (FAPE) if, in their educational placement prior to incarceration, they were determined not eligible for special education and did not have an IEP under Part B of the Individuals with Disabilities Education Act (IDEA). (EC § 56040(b), 20 U.S.C. § 1412(a) (1) (B) (ii), 34 C.F.R. § 300.102(a) (2).)

The federal regulations (34 CFR section 300.102(a) (2) (ii)) identify two exceptions to the above:

- a. Individuals who had been identified as eligible for special education and had received services in accordance with an IEP, but who left school prior to their incarceration; or*
- b. Individuals who did not have an IEP in their last educational setting, but who had been identified as eligible for special education.*

The district in which the incarcerated student’s parents reside is responsible for providing free appropriate public education (FAPE) to incarcerated students with disabilities in a county jail who do not fall into the above exception. (Los Angeles Unified School District v. Garcia, 58 Cal.4th 175 (Cal.2013)). This obligation would extend to a child-find obligation for students under the age of 18 who are incarcerated in an adult facility.

Local Forms

For initial referrals for preschool, school aged and adult students (aged 18 only), use the SELPA form titled Referral for Special Education Assessment. Parent referrals may either be in letter format or on the SELPA referral form. Referrals for infants should be completed on Humboldt County Office of Education and/or the Del Norte County Office of Education or Redwood Coast Regional Center forms, whichever is appropriate. It is not necessary for staff to use the referral form when requesting an assessment for an identified student with a disability who is currently receiving services through an IEP.

When refusing to do an initial evaluation, use the SELPA form prior written notice (PWN). Districts should use caution in refusing to do an initial evaluation, as such refusal is permissible under federal law, but has been determined to be impermissible under state law by the Office of Administrative Hearings, Special Education Division (“OAH”).

FAQ's

Do I have to accept a referral?

No, if you determine that the referral is inappropriate for any reason you may deny the request but you must provide the parent with PWN and comply with the 15 calendar day timeline. In most instances it is not prudent to deny referrals for an initial evaluation unless you have solid documentation that the student is making satisfactory or better progress in general education, as the OAH has interpreted state law as requiring that districts assess students in response to all initial referrals for special education.

Why does the referral have to be in writing?

There are two reasons. First, the district has to document receipt of the referral in order to initiate the special education timelines. Second, the district has to provide evidence that the resources of the general education program have been considered and when appropriate utilized.

What should I do if the parent comes to the school and wants help making a referral?

If the parent wants to make the referral, explain that it has to be in writing and help them complete the SELPA referral form. If the school has not conducted a student study team meeting for the student, explain the process to the parent and ask if they are willing to attend a Student Study Team (SST) prior to making the referral, or in the 15 calendar days prior to the date the assessment plan is due.

If a parent makes a referral, should they be encouraged to conduct a Student Study Team?

It is not required by law, but highly recommended practice prior to developing an assessment plan for a student. The SST meeting must be held within 15 calendar days so that any resulting assessment plan is provided to the parents within 15 calendar days of the request for assessment.

REMINDERS

- Referrals are for evaluations.
- Referrals must be in writing.
- Assessment plans must be developed within 15 calendar days of receipt of referral.
- Anyone, including an agency, can make a referral.

REFERRAL TO STATE SCHOOLS

Definition

Referral to State Schools means a referral of a student to California Schools for the Deaf, California Schools for the Blind, and/or the Diagnostic Schools.

Legal Requirements

A student may be referred, as appropriate, for further assessment and recommendations to the California Schools for the Deaf, California Schools for the Blind, and/or the Diagnostic Schools.

Prior to referring a student for further assessment to the California Schools for the Deaf or Blind and/or the Diagnostic Schools, districts, special education local plan areas (SELPA), counties, or other agencies providing education services, shall first conduct assessments at the local level within the capabilities of that agency. Results of local assessments shall be provided to parent(s) and shall state the reasons for referral to the State School. Results of local assessments that have been completed in the past 2.5 years shall accompany the referral request.

The Schools for the Deaf, the School for the Blind and the Diagnostic Schools shall conduct assessments pursuant to the provisions of EC § 56320 et seq.

A representative of the district, SELPA, or county (HCOE or DNCOE) IEP team shall participate in the staffing meeting and shall receive the final report and recommendations. Conference calls are acceptable forms of participation, provided that written reports and recommendations have been received by the representative prior to the meeting.

Legal References

EC 56326; Title 5 CCR 3025

Local Procedures

The California Department of Education operates Schools for the Deaf, Schools for the Blind, and Diagnostic Centers. School districts may refer students to any of these schools for further assessment.

Prior to referring a student to any of these state operated programs, the district/county office must first conduct its own assessment of the student within the capacity of the agency. The results of the assessment shall be reported to the parents in an IEP meeting. The IEP team shall explain the reasons for referring the student for further evaluation and obtain written parent consent prior to making the referral. The district/county office will include the results of local assessments, and a signed Authorization for Exchange of Confidential Information form in the letter of referral to the State school. The district shall participate in a staffing meeting with the State School at the completion of the evaluation. At that time staff from the State School will share the results of the evaluation and make recommendations to the district.

Local Forms

The district will obtain parent consent for referral to the State School on the SELPA Authorization for Release of Information form. APPENDIX A

FAQs

When is it appropriate to refer a student to one of the State schools?

The State schools can be helpful in cases where the district or County Office has conducted an evaluation of a student and after implementing an IEP for a reasonable period of time has determined that the student is not benefitting from the program and the district has exhausted its local resources for instructional support and/or diagnostic issues remain unanswered. The Diagnostic Centers are available to conduct additional assessments of a student when eligibility for special education is an issue. Contact the Humboldt-Del Norte SELPA for assistance obtaining such a Referral to for Educationally Related Intensive Counseling Services (ERICS).

REMINDERS

- Districts may refer a student to the State School for the Deaf, the School for the Blind, or a Diagnostic School for evaluation only after the district has conducted its own evaluation of the student. Evaluation cannot be older than 2.5 years.

REFERRAL FOR SCREENING

Definition

While there is no official definition of screening, the difference between screening and assessment seems to depend largely on its purpose. A special education assessment is focused on collecting information about a student in all areas related to a suspected disability for the purpose of determining eligibility and/or the need for special education services. Screening focuses on collecting information about multiple students in relation to their instructional programs in order to determine instructional strategies.

Legal Requirements

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

Legal References

EC 563121; 34 CFR 300:302

Local Procedures

For clarity, screenings should be viewed as a form of consultative service from a specialist, and should generally include an entire classroom or a significant portion of the class. Screening in this context may include observation, file review, examination of work samples, teacher interviews, etc. for the purpose of improving a student's instructional program. Screenings may be conducted for non-identified students or students with disabilities. Screenings may be performed by a variety of persons, i.e., special education teachers, service providers, program specialists, etc. Screenings may be performed at the request of the general education or special education teacher.

Following is the most common example of how screenings may be legally utilized:

1. A speech and language therapist does a brief assessment of each of the students in a kindergarten class in order to assist the teacher with targeted interventions for common articulation errors present in such an age group.

Screenings may not be used as a means of avoiding a referral for a special education evaluation, although they might be used to inform a student's IEP team regarding whether he/she might have a need for assessment in a newly identified area of need.

FAQs

Do I have to write a report if I conduct a screening?

There is no official guidance in this regard, but the SELPA does not recommend filing a written report.

Can I use a portion of a standardized test as a screener and/or without parental consent?

No, you should obtain parental consent to administer portions of any standardized assessments to a student.

REMINDERS

- Screenings are to determine appropriate instructional strategies for a student.
- Screenings cannot be used as a means of avoiding a referral for a special education evaluation.
- Screenings cannot replace the formal assessment needed to determine eligibility.
- Screenings should never involve the administration of individualized standardized tests.

ASSESSMENT PLAN

Definition

An assessment plan is a document that delineates how a student will be evaluated and includes all of the requirements in EC 56321(b).

Legal Requirements

If an assessment for the development or revision of the IEP is to be conducted, the parent or guardian shall be given, in writing, a proposed assessment plan. The assessment plan must meet all of the following requirements:

1. Be in language easily understood by the general public.
2. Be provided in the native language or mode of communication of the parent or guardian unless it is clearly not feasible to do so.
3. Explain the types of assessments to be conducted.
4. State that no IEP will result without the consent of the parent.

As part of the assessment plan described above, the parent or guardian of the student shall be provided with a written notice that shall include all of the following information (which are included in the SELPA Procedural Safeguards. APPENDIX B

1. Upon completion of the administration of tests and other assessment materials, an IEP team meeting, including the parent or guardian and his or her representatives, shall be scheduled to determine whether the student is a student with disabilities and to discuss the assessment, the educational recommendations, and the reasons for these recommendations.
2. In making a determination of eligibility under paragraph (1), a student shall not be determined to be a student with a disability if the determinant factor for the determination is one of the following in subparagraphs (A) to (C), inclusive, plus subparagraph (D):
Except:
 - a. Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in § 6368(3) of Title 20 of the United States Code.
 - b. Lack of appropriate instruction in mathematics.
 - c. Limited-English proficiency.
 - d. If the student does not otherwise meet the eligibility criteria under § 300.8(a) of Title 34 of the Code of Federal Regulations.
3. A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent or guardian.
4. A parent or guardian has the right to obtain, at public expense, an Independent Educational Evaluation (IEE) of the student from qualified specialists, as defined by regulations of the board, if the parent or guardian disagrees with an assessment obtained by the district. A parent or guardian is entitled to only one IEE at public expense each time the district conducts an assessment with which the parent or guardian disagrees.
5. If a district observed the student in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

6. The district 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 IEE, but not at public expense.
7. If the parent or guardian obtains an IEE at private expense, the results of the assessment shall be considered by the district with respect to the provision of free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student.
8. If a parent or guardian proposes a publicly financed placement of the student in a nonpublic school (NPS), the district shall have an opportunity to observe the proposed placement and the student in the proposed placement, if the student has already been unilaterally placed in the NPS by the parent or guardian. An observation conducted pursuant to this subdivision shall only be of the student who is the subject of the observation and shall not include the observation or assessment of any other student in the proposed placement. The observation or assessment by a district of a student other than the student who is the subject of the observation pursuant to this subdivision may be conducted, if at all, only with the consent of the parent or guardian pursuant to this article. The results of an observation or assessment of any other student in violation of this subdivision shall be inadmissible in a due process or judicial proceeding regarding the free appropriate public education (FAPE) of that other student.

A copy of Procedural Safeguards (also known as Parent Rights) shall be included with the assessment plan when sent to a parent or guardian.

Legal References

EC 56321; EC 56329

Timelines

The parent or guardian shall be given an assessment plan within 15 calendar days of the date of receipt of referral, not counting days between the student's general school sessions or terms or days of vacation in excess of 5 school days, unless the parent agrees in writing to an extension. In the case of vacations, the 15 calendar day timeline shall recommence on the date that the general school year reconvenes.

In the case of referrals received within ten calendar days prior to the end of the general school year, an assessment plan shall be developed within ten calendar days after the commencement of the subsequent general school year.

The parent has 15 calendar days following receipt of the assessment plan to sign consent.

Local Forms

Use the SELPA Assessment Plan. APPENDIX C

FAQ's

Can the case carrier complete the assessment plan without input from the assessment team and send it to the parents?

No, the assessment plan must address all areas related to the suspected disability, and the person drafting the assessment plan should consult with the student's teachers and parents to identify areas of suspected disability.

Can the case carrier put a person's name on an Assessment Plan without first consulting with that person?

No. In addition to the answer stated above, the cases carrier does not have the authority to commit the services of staff. This is especially true if the person to conduct the evaluation is not an employee of the district. Unless there is a specific reason to use an individual assessor, it is recommended that assessment plans not list the names of specific persons to complete assessments as these are subject to change.

What are the areas related to the suspected disability?

The actual areas to be assessed must be determined on an individual basis according to each student's unique needs. Areas to be assessed may include health and development, vision, hearing, motor abilities, language function, general intelligence, visual and/or auditory processing, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. In most situations, pursuant to EC §56327, all initial or triennial assessments should include observations of the student in both the classroom and an unstructured setting, and health/development, academic, and social/emotional testing, in addition to any unique needs of the student.

What do I put on the assessment plan if I am not going to administer a standardized test?

Regardless of the method of evaluation, indicate the area that is going to be evaluated, which can be done by observations, records review, interviews, etc.

What if, during an assessment, it becomes apparent that an area of need was not included in the assessment plan?

This situation illustrates why it is recommended that the team meet to discuss and develop the assessment plan, which should ensure that all areas of need are identified on the initial assessment plan. That being said, the case carrier will have to develop another assessment plan. In either case, it will require new parent consent.

REMINDERS

- The assessment plan must be developed within 15 calendar days of referral.
- The assessment plan must address all areas related to the suspected disability.
- The assessment plan must be developed with input from each assessor and the parent.
- The timeline can be extended with written parent approval.
- The parent has 15 calendar days to approve and return the assessment plan.
- Parents must receive a copy of procedural safeguards with the assessment plan.

INFORMED CONSENT FOR EVALUATION

Definition

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language, or other mode of communication.
2. The parent understands and agrees in writing to carry out of the activity for which consent is sought and the consent describes the activity(s) and lists records (if any) that will be released and to whom.
3. The parent understands that granting consent is voluntary and may be revoked at any time. If consent is revoked it is not retroactive and does not negate an action that has occurred after consent was given and before it was revoked.

Note: Although it is not specified in statute, when a parent or parents expresses their intention to revoke consent, it is recommended that districts require the revocation be submitted in writing.

Legal Requirements

Initial Evaluation

The district proposing to conduct an initial evaluation to determine if a student qualifies as a student with a disability must obtain informed consent before conducting the evaluation. The district must make reasonable efforts to obtain consent for the initial evaluation. Accordingly, a district should follow-up with parents regarding unreturned assessment plans. Parent consent must not be construed as consent for the initial provision of special education and related service.

If the student is a ward of the state, the district shall make reasonable efforts to obtain informed consent of the parent. The district is not required to obtain informed consent if:

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

If the parent does not provide consent or fails to respond to the request to provide consent, the district may, but is not required to, pursue initial evaluation of the student by pursuing mediation or one of the due process procedures. The district does not violate its obligation if it declines to pursue the evaluation.

Reassessments (Including Triennials)

The district must make reasonable attempts to obtain consent prior to conducting any reevaluation of a student with a disability. Parent consent need not be obtained if the district can demonstrate that:

1. It made reasonable efforts to obtain consent; and
2. The student's parent(s) have failed to respond.

To meet the reasonable measure requirements of this subdivision, the district shall use procedures consistent with those set forth in § 300.322(d) of Title 34 of the Code of Federal Regulations, as described below in "Reasonable Attempts." If considering completing a triennial reevaluation without parental consent, it is recommended you contact your district for guidance prior to proceeding.

If the parent refuses consent, the district may, but is not required to, pursue the reevaluation by using the procedures described above. The district may be required to file for due process in the event triennial reevaluation is necessary to provide free appropriate public education (FAPE) and/or determine continued eligibility to the student.

Reasonable Attempts

In order to meet the requirements for reasonable attempts, the district must document its attempts to obtain consent such as:

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

Other Times When Informed Consent Is Not Required

If a test or assessment is being administered to all student, parental consent is not required unless state or federal law otherwise requires parental consent to administer the test or assessment. Additionally, consent is not required to review existing data.

Private School Students

If a parent of a student who is placed in a private school by the parents at their own expense does not provide consent to the initial or reevaluation, or the parent fails to respond to a request to provide consent, the district may not file for due process to obtain permission to assess, as described above, and the district is not required to consider the student as eligible for services.

For more information regarding the definition of parent and who is authorized to give consent for special education purposes, see the section of this manual pertaining to 'IEP team members' or 'Parent.'

Legal References

EC 56021.1; EC56321; EC 56321.1; 34 CFR 300.9; 300:300; 300:322

Timelines

The parent has at least 15 calendar days after receipt of the assessment plan to arrive at a decision whether to sign consent for an evaluation and before which the district can file for due process to assess without parental consent. The assessment may begin immediately upon the district receipt of written consent.

Local Procedures

It is the responsibility of the case carrier to send the assessment plan to the parent(s). In cases where the parent does not respond to the request for permission to assess, the case carrier should make at least three attempts to obtain consent and keep a record of each attempt and each time a copy of the evaluation was given to the parent(s). Records may include:

1. Detailed records of telephone calls.
2. Copies of correspondence sent to the parents. Notices should be sent via certified mail for proof of delivery.
3. Detailed records of visits made to the home or place of employment.

Once written consent is received, it is the responsibility of the case carrier to immediately provide a copy of the signed consent form to each assessor.

Local Forms

Use the SELPA Assessment Plan to obtain parent consent. APPENDIX C

FAQ's

Can I begin the evaluation if the parent gives verbal permission?

No, you must receive parent consent in writing.

What should the case carrier do with the assessment plan once written consent is received?

The assessment plan should be date stamped with the date of receipt, and copies should be uploaded in SEIS and given to each assessor as soon as practicable. Provision of copies of the assessment plan eliminates the possibility of miscommunication and accidentally performing an assessment without having written consent, or of not performing an assessment because of lack of notice.

Does the district have to file for due process if the parent does not give consent for the assessment?

In the case of an initial evaluation or reevaluation, the district may, but is not required to, pursue mediation or one of the due process procedures. The district does not violate any of its obligations for identification/evaluation if it chooses not to. In the case of a reassessment, however, if the district determines that an assessment is necessary in order to provide the student an appropriate program, they should pursue an order permitting assessment via due process procedures.

In the case of students attending a private school paid for by their parents, the district may not pursue due process.

Is the parent the only one who can give informed consent?

The answer to this question depends on the legal definition of parent. See the section in this manual titled 'Parent.'

REMINDERS

- Informed consent is required prior to conducting an evaluation.
- Consent of the parent is not required for an initial evaluation if the district cannot locate the parent or if the parent's rights have been removed/restricted by the court. Consent from the educational rights holder and/or surrogate should be obtained in lieu of parent consent.
- The district does not have to file due process if the parent refuses consent for the initial evaluation.
- Consent is not required for a reassessment if the parent fails to respond to the request.
- The parent has at least 15 calendar days following receipt of the assessment plan to decide whether to sign the assessment plan.
- Consent is not required to review the student's file.

ASSESSMENT PROCEDURES

Definitions

1. Federal – Evaluation means procedures used to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs.
2. State – Assessment means an individual evaluation of a student in all areas of suspected disability.

Legal Requirements

Staff Qualifications

The assessment shall be conducted by persons competent to perform the assessment, as determined by the district.

In addition to provisions of § 56320 of the EC, assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it clearly is not feasible to do so, an interpreter must be used and the assessment report shall document this condition and note that the validity may have been affected.

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

Any psychological assessment of students shall be made in accordance with § 56324(a) and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the student being assessed.

Any health assessment of students shall be made in accordance with § 56320 and shall be conducted by a credentialed school nurse or physician who is trained and prepared to assess cultural and ethnic factors appropriate to the student being assessed.

General Assessment Requirements

In conducting an evaluation, the public agency must:

1. Ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified including social and emotional status.
2. Use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the student, including information provided by the parent that may assist in determining:
 - a. Whether the student is a student with a disability; and
 - b. The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum (for a preschool student, to participate in appropriate activities).
3. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
4. Use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

Before any action is taken with respect to the initial placement of a student with a disability in special education instruction, a full and individual assessment of the student's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all of the following:

1. Testing and assessment materials and procedures used for the purposes of assessment and placement of a student with disabilities are selected and administered so as not to be racially, culturally, or sexually discriminatory. The materials and procedures shall be provided in the student's native language or mode of communication, unless it is clearly not feasible to do so.
2. Tests and other assessment materials meet all of the following requirements:
 - a. Are provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is not feasible to so provide or administer.
 - b. Are used for purposes for which the assessments or measures are valid and reliable.
 - c. Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.
3. Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
4. Tests are selected and administered to best ensure that when a test administered to a student with impaired sensory, manual, or speaking skills produces test results that accurately reflect the student's aptitude, achievement level, or any other factors the test purports to measure and not the student's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.
5. No single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student.
6. The student is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests and social and emotional status. A developmental history shall be obtained, when appropriate. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to § 56136.
7. The assessment of a student, including the assessment of a student with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials and equipment consistent with guidelines established pursuant to § 56136.
8. If a student newly enrolls in a district with a pending initial assessment, and the prior district has not made a determination as to whether the student is a student with a disability, the 60-calendar-day timeframe may not apply. The student's new district must be making sufficient progress to ensure a prompt completion of the evaluation, and the parent and new district must agree to a specific time when the evaluation will be completed.
9. Each district shall ensure that assessments of a student with a disability who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of the full assessment.

Eligibility Exceptions

Unless disabled within the meaning of EC § 56026(a) through (d), students whose educational needs are due primarily to limited English proficiency, a lack of instruction in reading or mathematics; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not students with a disability.

A student must not be determined to be a student with a disability under this part:

1. If the determinant factor for that determination is:
 - a. Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in § 1208(3) of the ESEA); or
 - b. Lack of appropriate instruction in math; or
 - c. Limited English proficiency; and
2. If the student does not otherwise meet the eligibility criteria under 34 CFR § 300:8.

To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in 34 CFR § 300.304-300.306:

1. Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in General Education settings, delivered by qualified personnel; and
2. Data based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.

Reassessment Requirements

EC § 56381

(a)(1) A reassessment of the student, based upon procedures specified in Section 56302.1 and in Article 2 (commencing with Section 56320), and in accordance with Section 1414(a), (b), and (c) of Title 20 of the United States Code, shall be conducted if the local educational agency determines that the educational or related service's needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment. (2) A reassessment shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary. If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of a reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following: (1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in Section 300.305(a)(1)(i) of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers' observations. (2) On the basis of the review conducted pursuant to paragraph (1), and input from the parents of the pupil, identify what additional data, if any, is needed to determine: (A) whether the pupil continues to have a disability described in Section 1401(3) of Title 20 of the United States Code. (B) The present levels of performance and educational needs of the pupil. (C) Whether the pupil continues to need special education and related services. (D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

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

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

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

(f)(1) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to Section 300.300(c)(1) and (2) of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond. (2) To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in Section 300.322(d) of Title 34 of the Code of Federal Regulations. (3) If the parent refuses to consent to the reassessment, the local educational agency may, but is not required to, pursue the reassessment by using the consent override procedures described in Section 300.300(a)(3) of Title 34 of the Code of Federal Regulations. (4) The local educational agency does not violate its obligations under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the reassessment.

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

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

(i)(1) The assessment described in subdivision (h) shall not be required before the termination of a pupil's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under Section 56026. (2) For a pupil whose eligibility under this part terminates under circumstances described in paragraph (1), a local educational agency shall provide the pupil with a summary of the academic achievement and functional performance of the pupil, which shall include recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals as required in Section 1414(c)(5)(B)(ii) of Title 20 of the United States Code.

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

Evaluation Restrictions

In California, school districts may not administer tests that measure a student's intellectual quotient (IQ) if a student is African American. Other measures must be used to measure the cognitive abilities of an African American student. (Larry P. v. Riles, 495 F.Supp. 926 (N.D. Cal. 1979), affd. in pt., revd. in pt., Larry P. v. Riles, 793 F.2d 969 (9th Cir. 1986)). In 1992 the CDE issued a list of IQ measures that schools were specifically prohibited from using. CDE has not updated the list since that time.

Legal References

EC 56026; EC 56043; EC 56302.5; EC 56320; EC 56322; 56324; EC 56381 5 CCR 3023; 5 CCR 3030 34 CFR 300:15; 34 CFR 300:1221 34 CFR 300:301; 34 CFR 300:302; 34 CFR 300:303; 34 CFR 300:304; 34 CFR 300:305; 34 CFR 300:306; 34 CFR 300:309

Timelines

An IEP meeting shall occur within 60 calendar days of the date of receipt of consent for assessment, not counting days between the student's general school sessions, terms or days of school vacation in excess of 5 school days, unless the parent or guardian agrees, in writing, to an extension. For infants, there is a 45-day timeline that begins with the receipt of the referral for Early Start. The 60-day timeline does not apply to a district if either of the following occurs:

1. A student enrolls in a school served by the district after the assessment timeline began but before a determination regarding eligibility was made by the previous district. This exemption applies only if the current school district is making sufficient progress to ensure a prompt completion of the assessment and the parent agrees to an extension of the timeline.
2. The parent repeatedly fails or refuses to produce the student for the assessment.

Local Procedures

General Guidelines

Providing a thorough and relevant evaluation is of crucial importance. The following procedures will, at a minimum, provide a sound framework for conducting a special education evaluation.

Every evaluation, whether an initial or re-evaluation, should be based on a few guiding principles:

1. It must be sufficiently comprehensive to address all areas of suspected disability.
2. It must employ a variety of tools and strategies.
3. It must address key questions developed by the assessment team in consultation with the parents.
4. In the case of an initial or triennial evaluation, it must address eligibility.
5. In every case, it must identify student needs, whether or not those needs are typically related to the disability, and provide practical information that will assist the IEP team in writing goals and objectives.

Determining the Assessment Team

The case carrier, or someone else who is knowledgeable about special education and designated by the district, will have to decide who should be involved in the assessment of a student. In the case of an initial evaluation, this can be difficult because there may not be much information about the student

available. The case carrier should review whatever information there is, e.g., referral form, SST notes, cumulative file, etc., determine the areas of suspected disability and, based on that, identify the team. The case carrier should discuss needs with the student's teacher and parents prior to finalizing an assessment plan. Additional members and areas of suspected disability can always be added while the team is developing the assessment plan; however, every effort should be made to include all areas of suspected disability in the original assessment plan.

In the case of a reevaluation, the case carrier should consult with the current teacher and service providers on the IEP and the student's parent to identify the team.

Planning for the Evaluation

An evaluation is best conducted by a team, and begins with good planning. The case carrier, at some point, whether in the development of the assessment plan or afterwards, should meet with the assessment team to plan for the evaluation. Planning should include all of the following:

1. Developing focus questions to be addressed by the evaluation.
2. Agreeing on the focus and breadth for each person's role in the evaluation. This is particularly important when deciding who will collect information regarding eligibility and when two assessors are interested in evaluating the same area or type of information.
3. Agreeing on a timeline for completing assessments. Assessments should be completed in advance of the IEP meeting so that they can be reviewed for thoroughness and consistency.
4. Developing a method/timeline for sharing results with one another. It is important to be aware of each person's findings, especially when two assessors are forming opinions about identical or similar information.
5. In the case of second language cases, including hearing impaired students, deciding whether and how an interpreter will be used and ensuring the assessments chosen are selected to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English proficiency.
6. In the case of African-American students, deciding what assessments will be used in place of traditional cognitive tests.

Roles and Responsibilities in the Assessment Process

Case Carrier - The case carrier is responsible for all of the following:

1. Organize the assessment team and develop focus questions for the assessment.
2. Act as liaison with the parent throughout the assessment process and include provisions to provide parents with Assessment Plans and reports that include the student's primary language and language proficiency status (LEP/FEP) for English language learners.
3. Upon receipt of consent to assess, immediately disseminate copies of the consent to each assessor, including assessors from other agencies.
4. Monitor the completion of the evaluation, including compliance with timelines.
5. Disseminate assessment reports to each assessor.
6. Review reports from individual assessors and facilitate the resolution of inconsistencies.
7. Schedule the IEP meeting within the 60-day time period, or, for infant-aged students, within 45 days of receipt of referral for development of an IFSP.
8. Provide the parent with a copy of the report in his/her native language.

Assessors - Each assessor is responsible for all of the following:

1. Select assessment instruments and procedures and ensure that all assessments are consistent with the legal requirements described above.

2. In the case of an initial evaluation, collect information, as appropriate, to verify whether the student meets the eligibility criteria for the suspected disability(s).
3. Collect information, as appropriate, to determine the student's current levels of performance and needs, including baseline data, in their assigned area of assessment.
4. Collect information, as appropriate, in their assigned area of assessment that will assist in the development of goals and objectives for the development of the IEP.
5. Develop a written report of their findings and recommendations. (More information on assessment reports can be found in the section on Assessment Reports.)
6. Notify the case carrier regarding the results of the evaluation.

Content of the Assessment Eligibility

For eligibility purposes, the content of the assessment will depend in large part on the definition of the suspected disability(s). Please refer to the SELPA Eligibility Guidelines Handbook for a review of eligibility criteria and guidelines for assessment. <http://hdnselpa.org/ssepc/policies-procedures-and-guidelines/>

Eligibility Rules about Attention Deficit Disorder and Attention Deficit/Hyperactivity Disorder

A student whose educational performance is adversely affected by suspected or diagnosed ADD or ADHD and demonstrates a need for special education may qualify for services under the categories of Other Health Impaired, Emotional Disturbance, or Specific Learning Disabilities.

Exclusionary Criteria for Eligibility

In addition to determining whether a student has a disability, as defined above, the team will also have to verify that the educational needs of the student are not primarily due to limited English proficiency, a lack of instruction in reading or mathematics, temporary physical disabilities, social maladjustment or environmental, cultural or economic factors. The team will have to determine when and how these factors might be relevant and collect information as necessary. Following are a few examples of what might rule these out as causative factors:

1. Limited English Proficiency – If a record review or academic tests indicate the student is doing well in one area but not another, the area of delay may not be due to a lack of English proficiency. The same assumption can be made if there are school age siblings in the home who are making passing grades in school.
2. Temporary physical disability – Either a medical report or statement from a doctor can verify the nature of a physical disability.
3. Social maladjustment – Social maladjustment is a complex issue and primarily it relates to emotional disturbance. In other words, the characteristics listed in the eligibility criteria for ED cannot be solely the result of social maladjustment. Please also see the Special Education Eligibility Handbook on SELPA website. <http://hdnselpa.org/ssepc/policies-procedures-and-guidelines/>
4. Environmental, cultural or economic factors – The simplest way to explain how environmental, cultural or economic factors can negate eligibility is to give a couple of examples:
 - a. A student has poor articulation and the parents exhibit the same exact articulation errors.
 - b. A kindergartner has delays in fine motor, letter identification and other readiness skills, but there is no opportunity to learn these concepts at home, e.g., no crayons, no scissors, no student's books, no paper, etc.
5. Lack of instruction in reading or math –Assessors are going to have to approach this topic with a great deal of finesse. When collecting information to make this determination, assessors should concentrate on collecting and objectively reporting information as prescribed in law for each

curricular area and let the IEP team make the final decision as to whether the instruction was adequate. Assessors should collect information to address the following questions:

- a. Content – What reading program(s) was used for instruction? Did it address all of the required components of a comprehensive reading program, i.e., phonemic awareness, phonological development, word recognition, fluency and comprehension? What math program(s) was used? What was the content of that program?
- b. Staff Qualifications – Who provided the instruction? Was instruction provided by qualified personnel?
- c. Nature – If the school has adopted a Response to Intervention (RTI) instructional model, what was the nature of each level of instructional intervention? If the school does not have an RTI model, what instructional interventions were provided for the student?
- d. Extent – What was the frequency, intensity and duration for each level of instructional intervention?
- e. Data Collection – Is there documented evidence (data collection) that the student’s progress was assessed at repeated intervals during the instructional period? (Yes, this is required. See 34 CFR 300.309)

Student Needs

The majority of every evaluation should address the students need; most of which should be based on student performance and or behavior in the learning environment. While standardized tests may be helpful in determining eligibility, they are not very helpful in establishing baseline data for goals and objectives. Academic performance should be based on some form of curriculum based assessment, work samples, observation, etc. Once the assessment determines the primary area of need, the assessment should culminate in baseline performance on the target behavior that will be used to formulate the goals and objectives in the IEP. These same principles apply to other areas of need e.g., motor, self- help, vocational, communication, orientation and mobility, social, behavioral, etc.

Following are a couple examples of how to apply the previous concepts:

1. Reading Fluency – A student reads 100 words per minute in the 3rd grade adopted text and 50 words per minute in the 4th grade adopted text. The recommended goal for the IEP is to read 100 words per minute in the 4th grade adopted text. This type of goal is far more practical and meaningful than one based on the results of a standardized test, e.g., to read at the 4th grade level.
2. Math Calculation – A student completes a worksheet with two-digit addition problems with regrouping with 90% accuracy and a worksheet with three-digit addition with regrouping with 50% accuracy. The recommended goal for the IEP is to complete a worksheet with three-digit addition with regrouping with 90% accuracy. This type of goal is more practical and meaningful than one based on the results of a standardized test, e.g., to compute math problems at the 4th grade level.

Low Incidence Evaluations

Whenever an assessment is conducted for a student who is hearing impaired, visually impaired or orthopedically impaired, the appropriately credentialed low incidence teacher must be included in the assessment process. For procedures to request an assessment for equipment, refer to SELPA policy and request assistance. APPENDIX D

Low incidence staff should refer to the Low Incidence Guidelines published by the California Department of Education for more information.

Note: For information on triennial evaluations, see the section on Triennial Evaluations.

FAQs

Do I have to administer standardized tests?

When it comes to the determination of eligibility, the answer is maybe. It depends on the eligibility criteria for each disability. The eligibility criteria for certain disabilities require the use of standardized test scores. When it comes to the development of the IEP, the answer is not necessarily. Standardized test scores will not help write useful goals and objectives, write a behavior plan, determine appropriate services, etc. In this respect, the use of standardized testing is discouraged.

What is baseline data?

Baseline data is a description of the student's actual level of performance on a target skill. Assessments should not only assess what skills a student has mastered, but should also identify the next skill(s) a student needs to learn and describe the student's baseline performance on that skill. This type of information will allow the IEP team to develop accurate and meaningful goals and objectives.

How do I assess for ADHD, PDD, Dyslexia, Depression, etc?

Your assessment should be focused on educational disabilities, as defined by the IDEA and corresponding state regulations. However, you should use any diagnosed disabilities or medical conditions to develop the assessment and identify potential areas of need to assess.

What if the results of a multidisciplinary assessment are conflicting?

The larger the assessment team and the more overlap in areas of assessment, the more likely it is that this can occur. It is imperative that the case carrier, or someone else with the appropriate skills, review all of the results of a multidisciplinary assessment for inconsistencies or conflict and pull the team together to resolve the differences prior to the IEP meeting.

Are there special considerations for students who are designated English Language Learners?

Districts must provide parents with an Assessment Plan that includes the individual's primary language and language proficiency status (LEP/FEP); districts must ensure that the current assessment is comprehensive and that materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English proficiency; and IEP teams must consider the language needs of the student as such needs relate to the student's IEP and include linguistically appropriate goals, objectives, programs and services. The IEP must consider the results of the English Language Proficiency Assessments for California (ELPAC), or an alternate test, to determine the English language proficiency; must determine whether the ELPAC will be administered with or without modifications or accommodations; and must determine whether the student's English proficiency will be measured with using an alternate assessment. Finally, the student's IEP must include activities which lead to the development of English language proficiency, and providers must take into account instructional systems which meet the language development needs of the ELL students to ensure access to the general education curriculum.

REMINDERS

Districts must conduct an evaluation:

- When a student is not making adequate progress.
- When the parent or teacher requests an evaluation.
- Not more than once a year, unless the parent and district agree otherwise.
- Prior to changing a student's eligibility status, including exiting a student from special education.

All assessments must be sufficiently comprehensive to determine if the student has a disability and sufficiently comprehensive to determine the content of the IEP. Assessments must assess in all areas of suspected disability.

- Assessments must consider and when appropriate address exclusionary factors of eligibility.
- Cognitive tests may not be administered on African American students.
- Assessments for low incidence students (visually impaired, hearing impaired and orthopedically impaired) must have input from a low incidence staff.
- Assessors need to develop a plan for completing the assessment and communicate throughout the evaluation.

PRESCHOOL TRANSITION EVALUATION

Legal Requirements

Prior to transitioning a student with a disability from a preschool program to kindergarten or first grade, an appropriate reassessment of the individual shall be conducted pursuant to Article 2 (commencing with § 56320) of Chapter 4 to determine if the student is still in need of special education and services.

It is the intent of the Legislature that gains made in the special education program for individuals who received special education and services, in accordance with this chapter, are not lost by too rapid a removal of individualized programs and supports for these individuals.

As part of the transitioning process, a means of monitoring continued success of the student shall be identified by the IEP team for those student of kindergarten or first grade equivalency who are determined to be eligible for less intensive special education programs.

As part of the exit process from special education, the present performance levels and learning style shall be noted by the IEP team. This information shall be made available to the assigned General Education teacher upon the student's enrollment in kindergarten or first grade.

Legal Reference

EC 56445

Local Procedures

The preschool transition evaluation requires close collaboration between the current District of Service (DOS) providers and the receiving DOR. While the receiving DOR bears primary responsibility for the transition evaluation, the DOS has a better understanding of the student and has developed a working relationship with the parent. It is important, therefore, that the DOS and DOR work together to ensure that the transition is as smooth as possible for both the parent and the student. The first step is to develop an appropriate assessment plan for the evaluation. The DOS will provide the DOR with a written report of the student's present levels of performance, classroom strategies, accommodations and modifications, behavior and other relevant information to assist in this process. If necessary/appropriate, the DOS will also assist the DOR in obtaining written consent for the assessment.

Content of the Evaluation

There is very little legal guidance with regard to what the transition evaluation from preschool to kindergarten or first grade should consist of. We know the assessment has to be "appropriate" and we know that that special education supports should not be removed too soon. With this in mind, the evaluation should focus on answering the following questions:

1. Has the student made expected progress on the goals and objectives in his or her current IEP?
2. What are the student's current levels of performance and current instructional needs?
3. What type of supports will the student need in order to be successful in kindergarten or first grade?
4. Do my recommendations ensure that the student will maintain the gains he/she has made in special education?
5. How will the student participate in general education if appropriate?

In order to answer these questions, the transition evaluation may not require a large amount of formal testing. Information can be obtained from the Desired Results Developmental Profile (DRDP), work samples and classroom observations. Observations, are extremely important and should be conducted, not only of the student in the current learning environment but also of the prospective receiving teacher, whether general education or special education. In addition, observations in the proposed learning environment should occur, during which the observer must try to determine whether the student can function adequately in that environment (with or without supports), taking into consideration that the current observation is near the end of a year of instruction.

In the case of a student who does not attend a preschool and only receives speech/language services, the evaluation may be limited to progress in that area. If, however, the speech teacher has concerns about the student's ability to succeed in general education, the assessment should be expanded to include other areas and specialists as appropriate.

Evaluators

As stated earlier, primary responsibility for the transition evaluation rests with the receiving DOR. However, the current service providers should collaborate on the evaluation. The extent and nature of the collaboration will vary depending on the needs of the student. At a minimum, the assessment team must include a special education provider for each type of service listed on the current IEP plus any new suspected areas of need and the prospective receiving teacher. If the prospective teacher is unknown or not available, it should at least be a teacher from the appropriate grade level.

IEP Development

If the IEP team determines that the student will not require the same level of service at kindergarten or first grade, the team will document the following on the present level page of the IEP:

1. The information to be monitored to determine whether the student is progressing adequately.
2. The timeline for monitoring the student's progress.
3. The person(s) responsible for collecting information and monitoring student progress.

Exiting Special Education

If the IEP team determines that the student no longer requires special education and related services, the IEP team will indicate the student's present performance levels and learning style on the narrative page of the IEP. The case carrier shall ensure that this information is made available to the assigned General Education teacher upon the student's enrollment in kindergarten or first grade.

FAQs

Can the current service provider do the entire transition evaluation?

It is important for the receiving district to collaborate in the evaluation in order to make an offer of FAPE, including placement for the student, as the receiving district is responsible for the provision of FAPE. They should have at least observed the student prior to making that determination.

REMINDERS

- All preschool students receiving special education must be reevaluated prior to entering kindergarten or first grade.
- The reevaluation should focus on what the student requires in order to be successful in kindergarten or first grade.
- The receiving school should collaborate with the current services providers on the evaluation.
- If the IEP team exits a student, they must document the student's present performance levels and learning style and communicate that information to the receiving teacher.

EXIT/GRADUATION EVALUATIONS

Definition

Assessment to determine if a student continues to be eligible for special education.

Legal Requirements

Exit Evaluations

Before determining that the student is no longer a student with a disability, a district shall assess the student in accordance with § 56320 and this section, as appropriate and in accordance with § 1414 of Title 20 of the United States Code.

Graduation Evaluations

The assessment described above shall not be required before the termination of a student's eligibility under this part due to graduation from secondary school with a general diploma, or due to exceeding the age of eligibility for a free appropriate public education (FAPE). For a student whose eligibility under this part terminates under these circumstances, a district shall provide the student with a summary of the academic achievement and functional performance of the student, which shall include recommendations on the manner in which to assist the student in meeting his or her postsecondary educational goals.

Legal Reference

EC 56381

Local Procedures

Exit Evaluations

Prior to recommending that a student be exited from special education, the case carrier shall assemble an appropriate assessment team and develop an assessment plan for a comprehensive evaluation. The student will be assessed in all areas related to the disability to determine if the student continues to have a disability, if the student is still eligible for special education, and if the student is still in need of special education and related services. After the assessment is completed, an IEP team meeting will be held to make a determination regarding whether the student should be exited from special education.

The IEP team shall determine the exit decision for each student based upon the following criteria:

1. The student shall be ineligible for special education services when the impairment no longer adversely affects educational performance or when the student no longer meets eligibility criteria.

Note: 'Adversely affects educational performance' must not be determined solely based on whether the student is receiving passing grades. Social/emotional needs, behavioral needs, and any other needs present in the educational environment should also be considered by the IEP team.

2. The student's needs can be met in a less restrictive environment or in general education, not necessarily at grade level.
3. A plan to facilitate the student's transition to a less restrictive environment will be developed, including alternative placement if needed and a plan to assist the receiving teacher.

Graduation Evaluations

According to statute, this requirement only applies to students who graduate high school with a general high school diploma or age out at age 22. It does not seem to address students who graduate and leave

high school at age 18 with a certificate of completion or students who graduate early from an adult special education program with a certificate of completion. It is recommended by the Humboldt – Del Norte SELPA to treat all of these students the same and provide them all with an exit summary.

A graduation evaluation is not an evaluation in the true sense of the word. There is no requirement for an assessment plan, written consent or an IEP meeting. The student’s special education teacher or primary special education provider just needs to complete the SELPA form. In order to complete the form, the teacher needs to have current information about the student’s academic achievement and functional performance and be able to make recommendations regarding accommodations, supports and resources that the student might need after graduation. Each district will determine the time and method for providing this report to the student. districts are required to provide the parents or adult student with a prior written notice (PWN) before graduating the student, as graduation is legally considered a change of placement.

Local Forms

Complete the student IEP form Post - Secondary Exit page 1 and 2 APPENDIX E

FAQs

Do you have to do a comprehensive evaluation to exit a student from speech?

Yes, a formal reassessment must be done in order for the IEP team to determine that any currently eligible student is now ineligible.

REMINDERS

- The IEP team may not exit a student from special education without first conducting a reevaluation.
- Students are entitled to a summary of their performance and recommendations for accommodations, supports or resources after graduation from high school or completion of their course of study, and should be provided with prior written notice prior to graduation.

ASSESSMENT REPORTS

Definitions

Refers to a written report(s) compiled by assessment team members at the completion of an evaluation.

Legal Requirements

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

1. Whether the student may need special education and related services.
2. The basis for making the determination.
3. The relevant behavior noted during the observation of the student in an appropriate setting.
4. The relationship of that behavior to the student's academic and social functioning.
5. The educationally relevant health and development and medical findings, if any.
6. For students with learning disabilities which cannot be corrected without special education and related services.
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
8. The need for specialized services, materials and equipment for students with low incidence disabilities, consistent with guidelines established pursuant to § 56136.

Legal References

EC 56320; EC 56327; EC 56329; CDE Item #2-2-1

Local Procedures

While it is important that the evaluation be comprehensive and provide a thorough evaluation of the student, it is equally important that the assessment report be comprehensive and provide the IEP team with the information they need to make decisions and develop a good IEP for the student. In other words, the assessment report, in addition to meeting the technical requirements of the law, must provide the IEP team with the information necessary to address the question of eligibility and develop the IEP, particularly, to write good goals and objectives.

Assessment reports must address all areas indicated on the assessment plan and include the following: Identifying information, i.e., name, date(s) of evaluation, date of birth, age, gender, ethnicity, grade, primary language, parents' name and address, placement, school and names of assessors.

1. The purpose of the evaluation. The purpose should include specific questions that the assessment is to address.
2. When necessary, a statement that the student's primary language and racial and ethnic background were considered prior to the selection and interpretation of the evaluation procedures and measures.
3. The method(s) of evaluation, tests administered and a statement regarding the validity of the assessment results. If a student is assessed by a specialist who does not speak the student's primary language or mode of communication, describe the student's level of English proficiency and record how the assessment was conducted, e.g., with a translator, with a sign language interpreter, etc.
4. The student's educational background. This should include detailed information regarding the nature and results of instructional interventions in math and reading attempted to date and educationally relevant health, developmental and medical findings, if any.

5. Vision and hearing screenings results should also be included.
6. The results of each assessment including the identification of primary areas of need and current levels of performance in targeted areas. Specify the academic and behavioral skills the student has mastered and those skills that need to be learned. This information must be specific enough to serve as baseline data for the development of goals and objectives.
7. The relevant behavior noted during the observation of the student in an appropriate setting and its relationship to the student's academic and social functioning. The report should include where, when, and for how long the student was observed.
8. A statement regarding the effects of environmental, cultural, or economic disadvantage on student learning. In the case of English Language Learners, the extent to which the student's needs are the result of unfamiliarity with the English language.
9. Information related to enabling the student to be involved in and progress in the general curriculum.
10. Whether assistive technology and services are needed.
11. For students with low incidence disabilities, whether specialized services, materials, assistive technology and/or equipment are needed.
12. For students who are English Language Learners (ELL), whether linguistically appropriate goals/objectives are needed.
13. When an independent assessment has been provided by the parent, the report should show how that information was considered.
14. A summary of assessment results. This should include a description of whether the student meets the various eligibility requirements for a disability(s). This should include a statement that the delay cannot be corrected without special education and related services.

Note: The assessment report may include a statement, as appropriate, whether a student may need special education and related services. Ultimately, the determination of eligibility is an IEP team decision.

Recommendations for the IEP team to consider:

1. Whether the student's needs can be met in the general education classroom without modifications to the program or whether the student may need special education and related services. This should be stated in the format of a recommendation for the IEP team to consider when making its final decision regarding eligibility and services.
2. Instructional strategies, accommodation and modifications.
3. Testing accommodations and/or modification or alternate assessments.
4. There is no official timeline for completing the assessment report, nor for providing the report prior to the IEP if it is not complete. It is recommended by the Humboldt – Del Norte SELPA that the assessment report will be completed and a copy provided to the parents prior to the IEP meeting if possible. Otherwise, the report should be provided at the IEP meeting and reviewed in greater detail than if parents were able to review it prior to the meeting.

Following is a sample format for reporting assessment results:

Sample Report Format Demographics:

1. name
2. date(s) of evaluation
3. date of birth
4. age
5. gender
6. ethnicity
7. grade
8. primary language
9. parents' name and address
10. placement
11. school
12. names of assessors

Purpose of Evaluation:

1. Statement of purpose (why the student is being evaluated).
2. List of specific questions for the assessment to address.

Evaluation Content:

1. Areas of suspected disability to be addressed by the assessment.
2. When necessary, a statement that the student's primary language and racial and ethnic background were considered prior to the selection and interpretation of the evaluation procedures and measures.
3. Methods of assessment.
4. A statement regarding the validity of the assessments.
5. If a student is assessed by a specialist who does not speak the student's primary language or mode of communication, describe the student's level of English proficiency and record how the assessment was conducted, e.g., with a translator, with a sign language interpreter, etc.
6. List of tests and scores.

Educational Background:

1. Significant student history including behavior.
2. Detailed information regarding the nature and results of behavioral interventions and instructional interventions in math and reading attempted to date.
3. Relevant health, developmental and medical findings, if any.
4. Vision and hearing screenings results.

Assessment Results:

1. Assessment results for each area of assessment. This must include the specific academic /behavioral skills the student has mastered (current levels of performance) and baseline data for specific academic/behavioral skills the student needs to learn.
2. The relevant behavior noted during the observation of the student in an appropriate setting and its relationship to the student's academic and social functioning.
3. Information from interviews with teachers, parents, and student, as appropriate.

Summary and Findings:

1. Summary of the primary areas of need.
2. Whether the student's needs can be met in the general education classroom or whether the student may need special education and related services. This should be stated in terms of information to be provided to the IEP team for its consideration when making its final decision regarding eligibility and services.
3. Detailed information for the IEP team to determine whether the student meets eligibility requirements for a particular disability(s). For students with learning disabilities this should include a description of the identified processing delay(s) that defines the disability and whether there is a discrepancy between achievement and ability that cannot be corrected without special education and related services.
4. A statement regarding the effects of environmental, cultural, or economic disadvantage on student learning. In the case of English Language Learners, the extent to which the student's needs are the result of unfamiliarity with the English language.
5. A summary of the type and extent (frequency, intensity and duration) of instructional interventions that the student received in reading and math.
6. Information related to enabling the student to be involved in and progress in the general curriculum.
7. When an independent assessment has been provided by the parent, the report should show how that information was considered.

Recommendations:

1. Whether the student's needs can be met in the general education classroom without modifications to the general curriculum or whether the student may need special education and related services.
2. Instructional strategies, accommodation and modifications.
3. Testing accommodations and/or modification or alternate assessments.

FAQs

Whose responsibility is it to prepare the multidisciplinary assessment report?

It is up to the members of the assessment team to make that decision unless the district has established procedures for staff to follow. The district should take steps necessary to ensure that all reports are consolidated into a single multidisciplinary report.

What if the assessment team does not agree on final summary and recommendations?

The team should consult throughout the evaluation process so that areas of disagreement can be identified early and additional assessments conducted to resolve the dispute.

REMINDERS

- Assessments must result in a written report.
- Assessments should be consolidated into one written report.
- Assessments must contain all of the required components.
- Best practice is to give parents a copy of the assessment report prior to the IEP meeting.

INDEPENDENT EDUCATIONAL EVALUATIONS (“IEE”)

See SELPA Policy. APPENDIX F

CONTINUUM OF PROGRAM OPTIONS

Definition

The range of placements in which special education can be implemented.

Legal Requirements

Each SELPA shall ensure that a continuum of program options is available to meet the needs of students with a disability for special education and related services as required by the Individuals with Disabilities Education Act (IDEA).

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

1. General Education programs.
2. Special Education Programs; resource, learning lab, etc.
3. Designated instruction and services.
4. Special classes.
5. Nonpublic, nonsectarian school services. (NPS, RTC)
6. State special schools.
7. Instruction in settings other than classrooms where specially designed instruction may occur.
8. Itinerant instruction in classrooms, resource rooms and settings other than classrooms where specially designed instruction may occur.
9. Instruction using telecommunication and instruction in the home, in hospitals and in other institutions.

In addition to the continuum of program options listed above, a district may contract with a hospital to provide designated instruction and services required by the student with a disability as specified in the IEP. However, a district shall not contract with a sectarian hospital for instructional services. A district shall contract with a hospital for designated instruction and services required by the students with a disability only when no appropriate public education program is available. For purposes of this section, "hospital" means a health care facility licensed by the State Department of Health Care Services.

Legal References

EC 56360; EC 56361; EC 56361.5

Local Procedures

Once a student is eligible for special education, the IEP team will determine the student's placement and services in the least restrictive environment based on the following continuum of program options:

1. General Education
Placement in the general education program shall occur when the student's educational needs can be addressed through modifications of the general education program.
2. Specialized Academic Instruction (SAI)
Specialized Academic Instruction will be provided when a student has special learning needs that cannot be addressed adequately in the general education program. The students can be assigned to general education classroom teachers for the majority of a school day or placed in special education. The special education teacher plans and directs the student's instruction and assists the general education teacher.
3. Designated Instruction and Services (DIS),

Designated Instruction and Services (DIS), also known as Related Services, shall be available when the instruction and services are necessary for the student to benefit educationally from his or her instructional program. Students may need assistance in special areas that may include, but are not limited, to the following:

<ul style="list-style-type: none"> • Language/speech development & remediation • Adapted physical education • Physical therapy • Occupational therapy • Counseling/parent training • Health/Nursing services • Social Worker services • Vision services • Psychological services other than assessment and IEP development • Counseling and guidance services, including rehabilitation counseling • Instruction in the home or hospital 	<ul style="list-style-type: none"> • Audio-logical Services • Orientation/Mobility services • Specially designed vocational education and career development • Specialized driver training instruction • Recreation services • Specialized services for low incidence disabilities such as readers and vision/hearing services • Medical services for diagnostic and evaluation purposes • Interpreting services • Transportation
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4. Special Classes

Students may need special instruction for a majority of the day in a self-contained special day class on an integrated or isolated site to accommodate their special needs. Specially trained personnel staff these classes. Placement in a special class shall only occur when the student’s goals and objectives cannot be met in a less restrictive environment.

5. Nonpublic, nonsectarian school services (NPS, RTC)

Students may need educational services and programs that are not offered by the public schools. These students may attend state certified nonpublic and nonsectarian schools on a full or part-time basis. This placement recommendation is based on the IEP team decision that an appropriate public program is not available.

6. State Special Schools

Students may need a special school such as one of those operated by the State for students with severe visual or hearing impairments. These schools may be considered as a placement option when the IEP team has determined that no appropriate placement is available within SELPA.

7. Instruction in settings other than classrooms where specially designed instruction occurs

Students may need instruction in settings other than classrooms where specially designed instruction may occur. Community-based instruction, vocational training and/or work experience training would be examples.

8. Itinerant instruction

Students may need itinerant instruction in classrooms, resource rooms and settings other than classrooms where specially designed instruction may occur. Examples: include itinerant deaf/hard of hearing services in general education and/or visually handicapped services in general education or orientation and mobility trainings in the community.

9. Instruction using telecommunication, instruction in the home, in hospitals and in other institutions as required

Students may need such instruction due to illness or judicial placement (e.g., juvenile halls or youth authority settings). With constant technological advances, long-distance learning through telecommunication has become an increasingly valuable support on the educational continuum.

FAQs

What is the difference between Home/Hospital Instruction and Instruction in the Home or Hospital?

Home and hospital instruction is a general education term referring to temporary service provided to a student who is ill or injured and cannot attend school. It is provided by a general education teacher and must be provided at least five hours per week in order to count for average daily attendance. A student with a disability cannot be placed on general education home and hospital instruction. A student with a disability who needs instruction in the home or hospital must be placed in that setting by the IEP team. It is considered Designated Instruction and Service and is written into an IEP based on a written report from a physician or psychologist. The IEP team determines the frequency, intensity and duration of the service. The physician or psychologist report should include a statement of diagnosed condition, certify the student condition prevents the student from attending less restrictive placement and a statement of the projected calendar date for the student's return to school. A student with a disability cannot be placed on home and hospital instruction without such a report.

REMINDERS

- The continuum of program options is a range of special education placement/services from least restrictive to most restrictive.
- IEP teams must consider the continuum of program options when determining the least restrictive environment for a student.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

Definition

A legal mandate that demands that students be educated in general classroom settings to the maximum extent appropriate.

Legal Requirements

Basic Requirement

Each public agency must ensure that:

1. To the maximum extent appropriate, student with disabilities, including student in public or private institutions or other care facilities, are educated with student who are nondisabled; and
2. Special classes, separate schooling or other removal of student with disabilities from the General Education environment occurs only if the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Determination of Placement

Each public agency must ensure that a continuum of alternative placements is available to meet the needs of student with disabilities for special education and related services.

The continuum must:

1. Include instruction in general classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and
2. Make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with the general education classroom placement.

In determining the educational placement of a student with a disability, including a preschool student with a disability, each public agency must ensure that:

1. Unless the IEP of a student with a disability requires some other arrangement, the student is educated in the school that he or she would attend if nondisabled.
2. In selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services that he/she needs.
3. A student with a disability is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general education curriculum.
4. Students with a disability shall be grouped for instructional purposes according to their instructional needs.

Non-Academic Settings

In providing or arranging for the provision of nonacademic services and activities, including meals, recess periods and the services and activities set forth in 300.107 (counseling, athletics, transportation, special interest groups or clubs, referrals to agencies that provide assistance to students with disability needs, employment, etc.), each public agency must ensure that each student with a disability participates with a student without a disability in the extracurricular services and activities to the maximum extent appropriate to the needs of that student. The public agency must ensure that each student with a disability has the supplementary aids and services determined by the student's IEP team to be appropriate and necessary for the student to participate in nonacademic settings. Necessary aids and

services outside of the general school day are covered in a student's Section 504 plan, not the student's IEP. Students with disabilities cannot be excluded from field trips solely because of their disability.

Legal References

EC 56301, 34 CFR 300.114-117

Local Procedures

When determining placement and services for students, IEP teams must keep the previous requirements in mind, primarily the following key principles:

1. To the maximum extent possible, the student with a disability must be educated with students without a disability. The term "educated" is not limited to academic instruction. It includes academic and nonacademic activities occurring during the school day and before or after the school day.
2. Removing a student from the general education classroom should only occur if the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. The term "satisfactorily" is not defined and seems to allow the IEP team some flexibility in making its final determination. The 9th Circuit Court of Appeals, in the case of *Rachel H. vs. Sacramento Unified School District*, established the following four-part test to assist IEP teams in making decisions about LRE:
 - a. The educational benefits available to the student in a general classroom, supplemented with appropriate aids and services, as compared with the educational benefits of a special education classroom;
 - b. The non-academic benefits of interaction with students who are not disabled;
 - c. The effect of the student's presence on the teacher and other students in the classroom; and
 - d. The cost of mainstreaming the student in a general (general) educational classroom.
3. If the IEP team determines that the LRE for a student is not the general education classroom, it must then consider mainstreaming to ensure the student is integrated with his/her peers to the maximum extent practicable that allows the student to continue to make progress on his/her IEP goals.

Placement and Services

IEP teams must discuss LRE openly with parents during the IEP meeting. Parents must be made aware of their rights relative to LRE and the various program options available. When determining placement and services, IEP teams should proceed from the least to the most restrictive environments as follows:

1. Full time placement in the General Education Classroom at the student's neighborhood school with special education and related services.
2. Placement in the General Education Classroom at the student's neighborhood school for part of a school day and placement in special education classroom
3. Placement in a special education classroom at the student's neighborhood school for the majority or entire school day.
4. Placement from the student's neighborhood school to another school within the district.
5. Placement from the student's neighborhood school to a public school in another district.
6. Placement from the student's neighborhood school to a NPS/RTC.
7. Other placement options as appropriate, including instruction in the home.

It is not necessary to go through the entire progression of LRE options at every meeting. It is important that IEP teams consider all less restrictive placements than the one ultimately determined to be the most appropriate placement and services for a particular student. The only way to ensure that a student is placed in the LRE is to openly discuss the pros and cons of the various options leading up to the final selection for LRE. The discussion regarding LRE needs to occur not only at the initial IEP but at each annual review.

Before determining a placement to be the LRE, the IEP team must also consider any potential harmful effect the placement might have on the student or on the quality of services that he or she needs.

Non-Academic Considerations

It is important to remember that nonacademic activities are not limited to recess and lunch. Students with a disability have the right to participate in every type of school sponsored activity that a school has to offer such as clubs, after school programs, sports, dances, etc. IEP teams are not required to discuss and review every extra-curricular activity available at a school, but they should at least open discussion on the topic and entertain suggestions from the parents and other team members. If an activity requires some type of prerequisite skill or capability in order to participate, the IEP team must determine reasonable accommodations that the student is entitled to, pursuant to obligations under Section 504 of the Rehabilitation Act.

Supplementary Aids and Services

In making the determination regarding least restrictive environment, the IEP team must consider the extent to which supplementary aids and services would enable a student to participate in the general education program. When appropriate, supplementary aids and/or services must be specified in the IEP.

FAQs

Can a student receiving special education services play on the school football team?

Yes, provided that he/she qualifies for the team (with or without reasonable accommodations) like the other students. A Section 504 plan should be drafted to address the student's needs during extracurricular activities.

Does a school have to start a new classroom for one student?

No, if for example, a student requires a special class placement and the district's special class is located at a school other than the student's neighborhood school, the district has the right to send the student where the class is located and provide transportation or in lieu payment. If no appropriate class exists, the district would be required to create an appropriate placement in the LRE.

Is placing a full time instructional assistant with a student in a general education classroom considered least restrictive environment (LRE)?

Most educators would not consider it LRE if the only way a student could be in a General Education Classroom was to have a full time assistant. Having a full time assistant often has the reverse effect on a student in that the student, instead of becoming more integrated and independent in the classroom actually becomes less integrated and more dependent on the assistant. If a student requires a full-time assistant initially, the assistant should be gradually withdrawn to promote and maintain student independence. OAH has consistently found that a special day class is less restrictive than a full-time placement in general education with a 1:1 aide.

Refer to SELPA Special Circumstances Instructional Aide (“SCIA”) Policy for more information.
APPENDIX G

REMINDERS

- Students with a disability have the right to be educated with their nondisabled peers.
- Students with a disability should be removed from the general education classroom only if the nature or severity of their disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- The 9th Circuit Court of Appeals has established a four-part test for districts to use when determining LRE.
- Students with a disability have the right to participate in school sponsored clubs, sports, dances, etc.
- If necessary, supplementary aids and services must be provided to enable students receiving special education services to participate in school activities.

SECTION II

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

INDIVIDUALIZED EDUCATION PROGRAM (IEP) - NOTIFICATIONS

Definition

The written legal notice sent to all IEP team members notifying them of the IEP meeting.

Legal Requirements

Districts shall send parents/guardians notices of IEP team meetings that: (34 CFR; 300.322; EC 56341.5)

1. Indicate the purpose, time and location of the meeting.
2. Indicate who will be in attendance at the meeting.
3. Inform the parents/guardians of the provisions of 34 CFR 300.321(a)(6) and (c) relating to the participation on the IEP team of other individuals who have knowledge or special expertise about the student and/or 34 CFR 300.321(f) relating to the participation of the Infant and Toddlers with Disabilities Service Coordinator at the initial IEP team meeting.
4. For students turning 16 (or younger than 16 if deemed appropriate by the IEP team):
 - a. Indicate that the purpose of the meeting will be the consideration of postsecondary goals and transition services for the student.
 - b. Indicate that the district will invite the student to the IEP team meeting.
 - c. Indicate that, with the consent of the parents or a student who has reached the age of majority, the district will invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Parents or guardians shall be notified of the IEP meeting early enough to ensure an opportunity to attend and to exercise their right to record IEP meetings.

Legal References

EC 56341, 34 CFR 300:322

Timelines

There is no set timeline for sending out IEP notices. As stated above, parents must be provided notice early enough to ensure an opportunity to attend and to exercise their right to record IEP meetings.

Local Procedures

It is strongly recommended that case carriers review their caseloads at the beginning of each school year and develop a tentative schedule of IEP meetings for the year. This schedule should be shared with all IEP team members so that availability can be determined and dates confirmed. This step is especially important to ensure participation from service providers who are employed by other agencies, particularly the County Office of Education, County Department of Mental Health, the SELPA, California Children's Services ("CCS") and/or the Redwood Coast Regional Center ("RCRC"). Parents or guardians shall be notified of the IEP meeting early enough to ensure an opportunity to attend. Although there is no legally set timeline, it is recommended by the Humboldt – Del Norte SELPA for

the case carrier to ensure that the SELPA approved IEP Notice is sent to the parents and all IEP team members at least ten days prior to the scheduled IEP date, whenever feasible.

Local Forms

Districts are required to use the legally compliant IEP Notice developed and approved by the Humboldt - Del Norte SELPA, found in the Special Education Information System (SEIS) Document Library.

FAQs

Who is responsible for making sure that representatives from other agencies attend the IEP meeting?

It is the responsibility of the case carrier to make sure that all prospective IEP team members, including those members who are employed by other agencies, receive adequate advance notice regarding their required attendance at IEP meetings. It is the responsibility of the employing agency to ensure their attendance.

What do I do if a required IEP team member fails to attend the IEP meeting?

If a required member fails to attend the meeting the responsible administrator will have to either postpone the meeting or with the approval of the parent, complete an IEP Team Member Excusal form, prior to the IEP meeting, provided that the missing person's area of curriculum or related service is not a subject for discussion.

Note: For more information on required IEP team members, see the section on IEP team members.

Do I still have to send the parent an IEP notice after a student turns 18-year-old?

Yes, the law requires that parents continue to be noticed and be able to attend IEP meetings. However, they are no longer required to consent to the IEP unless the student has been conserved by the parent.

In the case of a divorce, who should be invited to the IEP meeting?

It depends on the court order, and it is recommended that you request a copy of the court order from both parents. If one parent has full legal custody, only that parent should be invited. If the parents share custody, both of the parents must be invited. You should not hold separate IEP meetings to accommodate divorced parents.

REMINDERS

- Districts may only use the official SELPA approved IEP Notice.
- IEP members must be given adequate notice of IEP meetings.
- Parents must be given notice early enough to ensure an opportunity to attend.
- It is the responsibility of the case carrier or other designated staff member to ensure that IEP notices are sent to all IEP team members, including parents and agencies.
- Even if a student has reached the age of majority, the parent must still be invited to the IEP meeting.
- In the case of shared custody, both parents must be invited to the IEP meeting.
- Be sure to include, CCS, Mental Health, Adult Agencies for transition and other pertinent agencies.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) – TEAM MEMBERS

Definition

The IDEA requires a district to ensure that certain persons attend a student’s IEP meetings and constitute the student’s “IEP team.”

Legal Requirements

Membership

Districts must ensure that the IEP team for any student with a disability includes the following members: (20 USC § 1414(d)(1); 34 CFR § 300.321; EC §§ 56341, 56341.2, 56341.5)

1. One or both of the student's parents/guardians and/or a representative selected by the parent/guardian. Definition of Parent – According to EC 56028, Parent means any of the following:
 - a. A biological or adoptive parent.
 - b. A foster parent if the biological or adoptive parent’s right to make educational decisions for their student has been limited by the court and the student is in a planned permanent living arrangement. A foster parent who has been excluded by the court from making educational decisions on behalf of a student may not act as the student’s parent. (EC 56055)
 - c. A guardian.
 - d. A grandparent, stepparent or other relative with whom the student lives or an individual who is legally responsible for the student's welfare.
 - e. A surrogate parent appointed by the district.
 - f. A person appointed by the court.
 - g. A parent does not include the state or any political subdivision of the government.
 - h. A parent does not include a NPS or NPA under contract with the district to provide special education service.
2. If the student is or may be participating in the general education program, at least one general education teacher of the student.
 - a. If more than one general education teacher is providing instructional services to the student, the district may designate one such teacher to represent the others. All other general education teachers should provide feedback to the IEP team. Additionally, any general education teacher whose class is being discussed should be present.
3. At least one special education teacher or, where appropriate, at least one special education provider for the student.
4. A representative or administrator of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
 - b. Knowledgeable about the general education curriculum.
 - c. Knowledgeable about the availability of district and/or SELPA resources.
5. An individual who can interpret the instructional implications of assessment results. This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student

shall be made by the party who invites the individual to be a member of the IEP team. (EC § 56341)

7. Whenever appropriate, the student with a disability.
8. For students suspected of having a specific learning disability in accordance with 34 CFR § 300.308 and 34 CFR § 300.310, at least one individual who is qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist, or remedial reading teacher. (EC § 56341) In accordance with 34 CFR § 300.310, at least one team member other than the student's general education teacher shall observe the student's academic performance and behaviors in areas of difficulty in the student's learning environment, including the general classroom setting. If the student is younger than five years old, or not enrolled in school, a team member shall observe the student in an environment appropriate for a student of that age. (EC § 56341)
9. For transition service participants:
 - a. The student, if the purpose of the meeting is the consideration of the student's postsecondary goals and the transition services needed to assist the student in reaching those goals pursuant to 34 CFR § 300.320(b).
 - b. If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.
 - c. To the extent appropriate and with the consent of the parent/guardian, or a student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.
10. For students who have been placed in a group home by the juvenile court, a representative of the group home. (EC § 56341.2)

Upon request of the parent/guardian of a student who was previously served under Early Education for Students with a disability (EC §§ 56425-56432) or the California Early Intervention Services Act (Government Code §§ 95000-95004), the district shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (20 USC § 1414(d)(1)(D); 34 CFR § 300.321; EC § 56341)

Dual Membership

A public agency representative may designate a public agency member of the IEP team to also serve as the agency representative, if the criteria in number 4 above are satisfied.

Excusal of Required IEP Team Members

A required member of the IEP team, described in numbers 2 through 5 above, shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing prior to the meeting, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (20 USC § 1414(d)(1)(C); 34 CFR § 300.321; EC § 56341) It is recommended that the district use best efforts to ensure that all mandatory team members can attend a student's IEP, rather than relying on the excusal process.

IEP Team Responsibilities

Districts shall ensure that IEP teams:

1. Review the IEP periodically, and at least annually, to determine whether the annual goals for a student are being achieved and the appropriateness of placement.
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.
 - b. The results of any reassessment conducted pursuant to EC § 56381.
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data.
 - d. The student's anticipated needs.
 - e. Other matters.
3. Consider the special factors when reviewing the IEP.

Confidential Student Input

As part of the participation of students with a disability in the development of the IEP, a student shall be allowed to provide confidential input to any representative of his/her IEP team.

Legal References

EC 56028; EC 56055; EC 56341; EC 56341.2; EC 56341.5; EC 56342, 34; CFR 300:321, GC 7572.5

Local Procedures

Members

The required membership for an IEP team varies depending on whether the meeting is an initial, annual review, triennial, transition, expanded IEP, whether the student has a specific learning disability, whether the student is bilingual, etc. It is the responsibility of the case carrier to be aware of the requirements listed above so they can identify the required members of the IEP team for each student on their caseload. Following are a few helpful reminders:

1. Required IEP members:
 - a. Parent.
 - b. General Education Teacher – although the law allows some flexibility with regard to this requirement, e.g., “if the student is or may be participating in the general education program,” there are few if any circumstances when possible participation in the general education program would not be discussed by the IEP team. In the case of a preschool aged student, a preschool teacher should be invited.
 - c. Special education teacher, service provider.
 - d. District administrative representative – the district administrative representative may designate another member of the IEP team to also serve as the district administrative representative, provided that person meets the criteria for the district administrative representative.
 - e. An individual who can interpret the instructional implications of assessment results. This individual may be the General Education teacher, the special education teacher/provider, the district representative, or an individual invited by the parent or district who has knowledge or special expertise regarding the student.
2. Permissive IEP members:

- a. At the discretion of the parent or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- b. Whenever appropriate, the student with a disability.

Note: When a student turns eighteen, the student should always be invited, unless the adult student has been conserved.

The list of permissive IEP members includes but is not limited to the following:

1. In the case of an initial IEP meeting regarding a student with specific learning disability, one person who is qualified to conduct individual diagnostic evaluations such as a school psychologist, speech and language pathologist or remedial reading teacher and one person other than the student's teacher who has observed the student's academic performance and behavior in the student's learning environment.
Note: There is nothing to prevent another IEP team member from meeting this requirement provided that they are qualified to conduct individual diagnostic examinations.
2. For students transitioning from Part C, infant programs, the Infant and Toddlers with Disabilities Coordinator.
3. For students in group homes, a representative from the group home.
4. For students receiving transition services a representative from the agency providing services.
5. A representative from a private school if the student is attending one.
6. Other persons as appropriate.

Note: Most students in foster homes are not in a 'planned permanent living arrangement' as described in the definition of parent. Hence, foster parents do not always meet the state's definition of parent for special education purposes. They may, however, be appointed as surrogate parents if the district so desires. For more information on how to appoint a surrogate parent, see the section titled Surrogate Parents.

Three of the requirements listed above deserve added emphasis:

1. Student's with transition services – prior to inviting a representative from an agency that may be providing or paying for transition services, make sure to obtain permission from the parent or adult student.
2. Students living in group homes – be sure to invite a representative from the group home.
3. Students transitioning from infant to preschool – invite the coordinator or another representative from the Infant Program.

Excusing a Required Member of the IEP Team

Districts may excuse a required member of the IEP team from attending all or part of an IEP team meeting if the parent gives permission prior to the meeting. Notice that the operative word here is 'required' member of the IEP team. According to California law, 'required' members are defined as the following:

1. The general education teacher.
2. The special education teacher or service provider.
3. The administrator/designee.
4. A person who can interpret the instructional implications of assessment results.

Districts are not required to pursue excusals for other IEP team members who may not be able to attend an IEP meeting.

Districts should remember that if a mandatory team member will be absent for even a portion of the IEP meeting, an appropriate excusal process should be followed, including providing written input in advance and getting an excusal form signed. Typically, mandatory team members should stay for the entire meeting unless they have provided written input to the parents and the IEP team prior to the meeting.

Districts should be cautious in how they implement this provision. Only persons with the proper authority should be allowed to excuse IEP team members from attending meetings. The responsible administrator in each district should be the only person who can approve the excusal of a mandatory team member from an IEP meeting. This person should be knowledgeable about special education procedures and requirements. Members should only be excused when it is necessary and districts should be cautious to avoid excusals that can be interpreted to constitute a pattern.

The following procedures should be followed when excusing persons from attending an IEP meeting:

1. As soon as a required member of the IEP becomes aware that he/she will not be able to attend a meeting, that person must notify the case carrier and the responsible administrator.
2. The administrator decides whether to substitute another qualified IEP team member, pursue an excusal, or reschedule the IEP meeting.
3. If a substitute is not available, the case carrier contacts the parent to explain the problem. If the parent agrees to excuse that person from the IEP meeting, the case carrier should immediately complete the IEP Team Member Excusal Form and obtain parent signature.
4. If the excused member's area of curriculum or related service is to be discussed at the meeting, the administrator will direct that person to submit written input to the parent and the IEP team prior to the meeting that the IEP team can use to develop the IEP. Parental consent to excusal should not be obtained until the parent has had a chance to review the team member's written input.
5. The person to be excused must submit their written input to the parent and case carrier sufficiently ahead of the IEP meeting to allow for review and clarification as necessary.

Note: Written input should include the following:

1. *Brief statement of the issues and recommendations.*
2. *Recommendations for services including frequency, intensity and duration as appropriate.*
3. *Recommendations for goals and objectives as appropriate.*

IEP Team Responsibilities

1. The IEP team must review the IEP for every student as needed, at least annually, to determine whether the student is making adequate progress towards the goals and objectives in the IEP and whether the placement is appropriate.
2. The IEP team must revise a student's IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.
 - b. The results of any reassessment conducted pursuant to EC § 56381.
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data.
 - d. The student's anticipated needs.

- e. Other matters.
3. The IEP team must consider special factors whenever developing or reviewing an IEP.
4. If, following an IEP meeting, a general or special education teacher has concerns about a student's IEP, the teacher should contact the case carrier or responsible administrator to express his/her concerns. The case carrier and/or responsible administrator will review the file and schedule an IEP meeting if necessary.

Confidential Student Input

Students have a right to consult with any member of the IEP team during the school day regarding matters that affect the development of the student's IEP. The case carrier should inform students of this right and IEP team members should make themselves available whenever a student makes such a request. The only guidance from the statute regarding the information/input from the students is that it must be kept confidential.

Local Forms

Note: This form needs to be submitted to the parent and IEP team prior to the meeting.

The Humboldt - Del Norte SELPA "IEP Team Member Excusal" form must be used to document the excusal of IEP team members. In completing the form, the school site designee must indicate whether the person's area of curriculum or related service is a subject for discussion at the IEP meeting. If it is, that person must submit written input to the development of the IEP to the parent and IEP team prior to the meeting. This form is found in the SEIS document library.

FAQs

Does the general education teacher have to attend the meeting if the student is not going to be mainstreamed at all?

Even if the student currently is not participating in general education, there are few to no circumstances when the IEP team can determine prior to the meeting that it is not necessary to discuss the student's possible participation in general education. To do otherwise could constitute predetermination of placement. It is always recommended for the general education teacher to attend as a required member.

Can we complete the IEP Team Member Excusal Form at the IEP meeting?

Parents must be informed prior to the meeting that the team is seeking an excusal for a member. The form should be filled out prior to the meeting to ensure that the parent is aware and agrees to or consents to the excusal. Additionally, if the team member's area of curriculum or services is being discussed, the team member must provide written input to the parents and the IEP team prior to the IEP meeting. If the parent does not agree or consent, it affords the district time to reschedule the meeting so they can be compliant with timelines.

What happens if the parent will not agree to excuse a required IEP team member?

The responsible administrator will either have to re-schedule the IEP meeting or appoint a qualified substitute to replace the member who cannot attend the meeting.

Does a parent have the right to demand who attends an IEP meeting?

The law is clear that parents have the right to include persons who they feel have knowledge or special expertise about their student. However, if a person that the parent wants to include is an

employee of the district and the IEP is during the contract workday, the district can decide whether that person will be able to attend the meeting. The district is only obligated to make mandatory team members available for the meeting.

Are there definite times when the student must be invited?

Yes, once a student reaches the age of 18 they must be invited to all IEP meetings, unless the student lacks the cognitive ability to adequately represent him/herself and the courts have appointed someone to act as conservator on their behalf. Beginning when the student is 16 years old, or younger if appropriate, the student should also be invited to any IEP meeting where postsecondary goals and transition services are to be discussed.

Our school has a difficult time getting general education teachers to attend IEP meetings. Can we just excuse them?

No, the general education teacher is a required member of the IEP team. Additionally, they are required to stay for the entire meeting.

Who is considered “qualified” to provide, or supervise the provision of, specially designed instruction?

The term “qualified” is defined in § 3001(y) of Title 5 of the California Code of Regulations as meaning that “a person has met federal and state certification, licensing, registration, or other comparable requirements . . .” A person qualified to provide specially designed instruction to meet the unique needs of students with a disability would need to be an individual who possesses certification, license or registration in the field of special education such as a speech language pathologist, school psychologist, special education teacher, occupational therapist and physical therapist. A person qualified to supervise the provision of specially designed instruction to meet the needs of students with a disability to be an individual who possesses certification as an administrator.

Note: In addition to being qualified, the district representative must be knowledgeable about the general education curriculum and special education resources.

Does the “qualified” individual need to be an administrator, special education teacher or provider at the time of the IEP meeting?

No, the “qualified” individual could be serving in a different role as long as he/she possessed the necessary certification, license, or registration as an administrator, special education teacher or provider. A provider would include an individual who is qualified to provide special education or related services such as a special education teacher, speech language pathologist, school psychologist, occupational therapist and physical therapist. Likewise, a general education teacher could be considered qualified to provide specially designed instruction if he/she also possessed a special education teaching credential.

REMINDERS

- There is no simple formula for determining who should attend an IEP meeting. IEP teams must be determined on a case-by-case basis.
- Required IEP team members may be excused from attending a meeting if the district and parent agree in writing prior to the meeting, however it is not recommended.
- Agencies that provide transition services may be invited to IEP meetings but only with parent/adult student consent.
- Only authorized persons should be allowed to determine when members may be excused from IEP meetings.
- If a member is excused from attending an IEP meeting he/she may have to provide written input to the parent and IEP team.
- It is a rare occasion when a general education teacher is not a required member of the IEP team.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) - TEAM MEETINGS

Definition

A meeting to develop, review, or revise the IEP of a student with a disability.

Legal Requirements

Meeting Requirements

An IEP team shall meet whenever any of the following occurs:

1. A student has received an initial formal assessment for special education. The team should meet when a student receives any subsequent formal assessment.
2. The student demonstrates a lack of anticipated progress.
3. The parent or teacher requests a meeting to develop, review, or revise the IEP.
4. At least annually, to review the student's progress, the IEP, including whether the annual goals for the student are being achieved and the appropriateness of placement, and to make any necessary revisions. The IEP team conducting the annual review shall consist of those persons specified in subdivision (b) of § 56341. For more information, see “IEP Team Members” section of this manual. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

A meeting of an IEP team requested by a parent to review an IEP pursuant to subdivision (c) of § 56343 shall be held within 30 calendar days, not counting days between the student's general school sessions, terms or days of school vacation in excess of five school days, from the date of receipt of the parent's written request. If a parent makes an oral request, the district shall notify the parent of the need for a written request and the procedure for filing a written request.

It is the intent of the Legislature that the IEP team meetings be non-adversarial and convened solely for the purpose of making educational decisions for the good of the student with a disability.

The IEP meeting shall be scheduled at a mutually agreed-upon time and place.

To the extent possible, the district shall encourage the consolidation of reassessment meetings for the student with a disability and other IEP team meetings for the student.

Team Determinations

The IEP team shall review assessment results, determine eligibility, determine the content of the IEP, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of § 56195.8 (for more information, see “Transportation Agreements” section of this manual), and make program placement recommendations.

In determining the program placement of a student with a disability, a district shall ensure that the placement decisions and the student's placement are made in accordance with §§ 300.114 to 300.118, inclusive, of Title 34 of the Code of Federal Regulations.

The IEP team shall review the student's IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and revise the IEP, as appropriate, to address, among other matters, the following:

1. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.
2. The results of any reassessment conducted pursuant to § 56381.
3. Information about the student provided to, or by, the parents or guardians as described in subdivision (b) of § 56381.
4. The student's anticipated needs.
5. Any other relevant matter.

Explanation of Rights

At each IEP meeting, the district responsible for convening the meeting shall inform the parent and student of the federal and state Procedural Safeguards that were provided in the notice of Procedural Safeguards pursuant to § 56321.

Team Considerations

1. When developing each student's IEP, the IEP team shall consider the following:
 - a. The strengths of the student.
 - b. The concerns of the parents or guardians for enhancing the education of the student.
 - c. The results of the initial assessment or most recent assessment of the student.
 - d. The academic, developmental, and functional needs of the student.
2. The IEP team shall do the following:
 - a. In the case of a student whose behavior impedes his or her learning or that of others, consider the use of behavioral interventions and supports and other strategies, to address that behavior.
 - b. In the case of a student with limited-English proficiency, consider the language needs of the student as those needs relate to the student's IEP.
 - c. In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille, unless the IEP team determines, after an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the student's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the student.
 - d. Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode.
 - e. Consider whether the student requires assistive technology devices and services as defined in § 1401(1) and (2) of Title 20 of the United States Code.
3. If, in considering the special factors described in subdivisions (a) and (b), the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education (FAPE), the IEP team shall include a statement to that effect in the student's IEP.

Nonpublic School (NPS)/Residential Placements

An elementary school district shall notify a high school district of all students placed in NPS or agency programs prior to the annual review of the IEP for each student who may transfer to the high school district.

When an IEP calls for a residential placement, it is recommended that the IEP shall include a provision for a review, at least every three months, by the full IEP team of all of the following:

1. The case progress.
2. The continuing need for out-of-home placement.
3. The extent of compliance with the IEP.
4. Progress toward alleviating the need for out-of-home care.

General Education Teacher Participation

A general education teacher of the student, who is a member of the IEP team, shall participate in the review and revision of the IEP of the student consistent with § 1414(d)(1)(C) of Title 20 of the United States Code.

A general education teacher of a student with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development of the IEP of the student including the determination of:

1. Appropriate behavioral interventions and supports and other strategies for the student; and
2. Supplementary aids and services, program modification, and support for school personnel consistent with 34 CFR 300.320.

Parent Participation

A district shall ensure that the parent of each student with a disability is a member of any group that makes decisions (the parent has input on more than the educational placement) on behalf of the student. Each district convening a meeting of the IEP team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each IEP meeting or are afforded the opportunity to participate.

Pursuant to § 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the district shall use other methods to ensure parent or guardian participation including individual or conference telephone calls and, consistent with § 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the district may agree to use alternative means of meeting participation such as video conferences and conference calls.

The parent or guardian shall have the right to present information as part of the IEP team in person or through a representative and the right to participate in meetings relating to eligibility for special education and related services, recommendations and program planning.

The district shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

The district shall give the parent or guardian a copy of the IEP in his or her native language, at no cost to the parent or guardian.

Recording IEP Meetings

1. Notwithstanding § 632 of the Penal Code, the parent/guardian or district shall have the right to record electronically the proceedings of IEP team meetings on an audiotape recorder. The parent or guardian or district shall notify the members of the IEP team of their intent to record a meeting at least 24 hours prior to the meeting. If the district initiates the notice of intent to audiotape record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be tape recorded, the meeting shall not be recorded on an audiotape recorder.
2. The Legislature hereby finds as follows:
 - a. Under federal law, audiotape recordings made by a district are subject to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and are subject to the confidentiality requirements of the regulations under §§ 300.610 to 300.626, inclusive, of Part 34 of the Code of Federal Regulations.
 - b. Parents or guardians have the right, pursuant to §§ 99.10 to 99.22 inclusive of Title 34 of the Code of Federal Regulations, to do all of the following:
 - i. Inspect and review the tape recordings.
 - ii. Request that the tape recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of student with a disability.
 - iii. Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading or in violation of the individual's rights of privacy or other rights.

Meetings without Parents in Attendance

A meeting may be conducted without a parent or guardian in attendance if the district is unable to convince the parent or guardian that he or she should attend. In this event, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place, such as:

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

It is recommended that a district try to convene at least three IEP meetings with parent prior to proceeding with having an IEP meeting without parents present. Remember that you can always allow a parent to participate in a meeting via telephone. When the IEP team has convened, it is best practice to call the parent and determine if he/she can participate via phone.

Types of meetings that do not require formal IEP meetings

An IEP meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. An IEP meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Modifying the IEP without Holding an IEP Meeting (Amendments)

In making changes to a student's IEP after the annual IEP meeting for a school year, the parent of the student with a disability and the district may agree not to convene an IEP meeting for the purposes of making those changes and instead may develop a written document, signed by the parent and by a

representative of the district, to amend or modify the student's existing IEP. This type of IEP change is referred to as an "IEP Amendment."

Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or as provided above, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the student's complete operative IEP with the amendments incorporated.

If changes are made to the student's IEP, the district shall ensure that the student's IEP team is informed of those changes.

Timelines

An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 calendar days (45 calendar days from referral for Early Start), not counting days between the student's general school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an IEP required as a result of an assessment of a student shall be developed within 30 calendar days after the commencement of the subsequent general school year as determined by each district's school calendar for each student for whom a referral has been made 30 calendar days or less prior to the end of the general school year. In the case of student school vacations, the 60-day time shall recommence on the date that student school days reconvene.

Legal References

EC 56043; EC 56304; EC 56341.1; EC 56341.5; EC 56342; EC 56342.5; EC 56343; EC 56344; EC 56380.1; EC 56381; EC 56500.1, Title 5 CCR 3069, Title 2 GC 60100, 34 CFR 300:323; 300:324; 300:328; 300:501

Timelines

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APPENDIX H

If the parent requests an IEP meeting, it must be held within 30 calendar days, not counting days between the student's general school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written request. The request must be in writing.

Local Procedures

General Requirements

There are a few important basics to keep in mind about IEP meetings, namely:

1. Scheduling is important. The meeting must be scheduled at a mutually agreed-upon time and place. Mutually agreed upon means agreeable to both the parent and the district.

2. Meetings should be non-adversarial and convened solely for the purpose of making educational decisions for the good of the student with a disability. While meetings can become adversarial at times, it is important to remember to keep the focus on the student's needs.
3. IEP meetings can be very time consuming for both districts and parents. Districts are encouraged to consolidate meetings whenever possible. For example, if a triennial evaluation is due, try to combine it with the annual review. If a student is transitioning to the high school, have the transition meeting coincide with the annual review.

Requirements for Holding IEP Meetings

IEP meetings must be held at the following times:

1. Initial Evaluation – An IEP meeting must be held upon the completion of an initial evaluation and within 60 calendar days of receiving the signed assessment plan (45 calendar days from referral for Early Start).
2. Annual Reviews – The IEP must be reviewed at least annually.
3. Parent Request – Parents may request that the district hold an IEP meeting for their student. The request must be in writing. If the parent makes a verbal request, the person receiving the request must explain to them that the request must be in writing. The district must then hold the IEP meeting within 30 calendar days from receipt of the written request, with the typical exceptions for vacations and breaks exceeding five school days. The law places no limits on how many times a parent can request an IEP meeting.
4. Teacher Request – The district must hold an IEP whenever the 'student's teacher' requests one. Unfortunately, code does not define 'student's teacher,' nor does it give a timeline for holding this IEP meeting. The SELPA therefore defines the 'student's teacher' as any of the following:
 - a. The classroom teacher the student is assigned to. If the student is assigned to a special day class and is mainstreamed into a general education classroom, the general education teacher is also considered the student's teacher.
 - b. Any special education service provider designated on the student's IEP, i.e., SAI, speech, VI, etc.
 - c. It is recommended this meeting be held within 30 calendar days of the teacher's request.
5. Reevaluations/Triennial Review – According to law, the district is only required to hold an IEP meeting after an evaluation subsequent to the initial evaluation, including a triennial evaluation, if the results of the evaluation require a change in the IEP. Because this language is confusing, the SELPA strongly recommends that districts always hold an IEP meeting to review the results of a reevaluation within 60 calendar days of the date the parents signed the assessment plan.

Role and Function of the IEP Team

In the simplest of terms, the IEP team's primary role is limited to the following:

1. Review the assessment results (when provided).
2. Determine eligibility.
3. Determine the content of the IEP.
4. Consider local transportation policies and criteria.
5. Make program placement recommendations. (The district has the final authority for and responsibility of actually determining placement.)

Reviewing Assessment Results

When an IEP meeting is being held as the result of an initial evaluation or reevaluation, the team will review the results of the evaluation. This should be kept simple and focus on information that pertains

directly to the development of the IEP. It is recommended that teams discuss the assessment results in parent-friendly language and focus on pertinent information such as:

1. Does the student meet the criteria for a disability?
2. Are there any factors that would automatically disqualify a student from eligibility?
3. What are the student's primary areas of need?
4. What are the student's current levels of performance?
5. What are the recommendations for goals and objectives and the baseline data for each?

Determining Eligibility

Determining eligibility is the responsibility of the IEP team. If the team is not familiar with the eligibility requirements, the IEP administrator, case carrier, and/or relevant assessors should review the assessment results related to the criteria and answer questions as necessary. The team should then make the final determination as a group.

When determining eligibility, the IEP team must first decide whether the student meets the criteria for a disability(s). If the student clearly meets the eligibility criteria, the IEP team must verify that the disability is NOT due to any of the following factors:

1. The effects of environmental, cultural or economic disadvantage.
2. Lack of appropriate instruction in reading, including the essential components of reading instruction.
3. Lack of appropriate instruction in math.
4. Limited English proficiency.

If the student meets the criteria for a disability and all of the previous factors are ruled out, the last step is to decide whether the student requires instruction and services that cannot be provided without modification of the general school program.

Determining the Content of the IEP

Directions for completing the IEP form can be found in the Refer to State SELPA Forms Manual Writing IEPs for Education Benefit in the SEIS Document Library. In the case of an initial evaluation, most of the information will come from the evaluation. In the case of an annual review, most of the information should be based on the student's progress on the prior IEP's goals and current functioning in the classroom. In fact, the meeting should begin with a report of the student's progress on the prior IEP goals.

When developing the new IEP the IEP team must consider all of the following:

1. The strengths of the student – these may come from the assessment, the prior IEP, and input from the parents and the student's teacher/s. This information should be related to educational functioning.
2. Concerns of the parents – these should be recorded on the Present Levels of Academic Achievement page.
3. The results of any assessments – in addition to strengths, this will include areas of need and current levels of performance in each area of assessment.
4. Special Factors:
 - a. Assistive Technology – If a student requires some form of assistive technology device, it should be noted here. Assistive technology can be low tech such as a specialized mouse or high tech such as a computerized communication device. In no case should the IEP specify a particular device, i.e., brand, model, etc. It should specify the function that the

- device serves, i.e., a portable device that enables the student to speak to others. The rationale section for assistive technology should be filled out for all students.
- b. Blind or Visually Impaired – This refers to a student who meets the eligibility criteria for one of these disabilities, not a student who just wears glasses or has visual perceptual problems. Does the student require instruction in Braille or the use of materials in Braille? This must be decided based on an evaluation by a qualified VI teacher.
 - c. Deaf or Hard of Hearing –If the student’s primary mode of communication is sign language, this section should be completed with input from a teacher of the Hearing Impaired to address opportunities for the student to communicate with peers and adults and providing direct instruction in sign language if appropriate.
 - d. English Learner – Is the student an English Learner? If so, the team must consider the language needs of the student, such as whether the student needs linguistically appropriate goals and objectives or special instruction. This section should not be completed if the student is not an English Learner.
 - e. Behavior – Does the student’s behavior impede his/her learning or that of others? If so, the team must consider the use of behavior interventions and supports and other strategies, i.e., goals and objectives, classroom accommodations, incentives, etc., to address that behavior. At least one IEP goal should be written for any student whose behavior impedes the learning of himself/herself and/or others. This question should be asked and considered at every IEP meeting for every student.

Note: If the IEP team determines that a student requires a particular device, service, intervention, accommodation or modification for any of the above special factors, it should be stated in the IEP.

Explanation of Procedural Safeguards

At each IEP team meeting, the team must inform the parents, or adult student, about their Procedural Safeguards. The Procedural Safeguards inform the parent and student of the federal and state rights that safeguard the IEP process for students and families. At least annually, the Procedural Safeguards must be given to the parents or adult student. Best practice is to offer the Procedural Safeguards at each IEP meeting. Additionally, the SELPA recommends the district explain the document in general terms and ask if the parents have any questions at that time.

The district should also offer to meet with the parents at another time and go over the Procedural Safeguards in greater detail if they so desire.

Residential Placement Requirements

In the case of a student placed in a residential placement, the IEP team should hold an IEP to review the student’s progress every three months, minimum. Please see the SELPA’s Residential Treatment Center Guidelines for more information. APPENDIX I

Transition to High School

For elementary school districts who have students transitioning to the high school district, a high school representative must be invited to the annual review prior to the student transitioning to the high school. If a high school representative does not attend the meeting, the elementary school district shall develop the IEP and notify the high school district of the results of the IEP meeting in writing immediately following the IEP meeting.

General Education Teacher Participation

The general education teacher participates in the IEP meeting the same as any other IEP team member but he/she also plays a specific role in relation to two particular issues. One, for student's whose behavior impedes their learning or the learning of others, the general education teacher should assist the IEP team in the development of behavioral interventions and supports. This may be as minor as identifying simple classroom interventions to be noted in the IEP or as involved as developing a Behavior Intervention Plan (BIP) for the student. Two, the general education teacher should also assist the IEP team in determining supplementary aides and services and/or program accommodations and/or modifications that will enable the student to be successful in the general education program. They may also help determine when and how support should be provided to school personnel in order for them to better understand and provide assistance for a student.

Note: For specific ideas for holding IEP meetings, including sample agendas, see the section on Tips for IEP Meetings.

FAQs

What does it mean to provide a student with a "FAPE"?

*A free appropriate public education, or "FAPE," consists of both procedural and substantive components. The procedural components are discussed extensively in this manual. The Supreme Court, in *Endrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (2017), provided the substantive standard for FAPE: "To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances."*

How do you keep an IEP meeting from being non-adversarial?

If you know that the meeting is going to be contentious, it is a good idea to arrange to have a facilitator at the meeting. It is best if you can find someone who has been specifically trained as a facilitator for IEP meetings. Please contact SELPA for resources.

What should we do if any IEP team members are unsure of the law around eligibility?

The IEP administrator and/or case carrier needs to consider this prior to the meeting, and if necessary meet with staff to discuss eligibility criteria beforehand. If that is not possible, the administrator and/or case carrier will have to either postpone the meeting or explain the criteria at the meeting and walk staff through each step of eligibility determination. It is recommended that the administrator and/or case carrier do both because if staff do not understand the eligibility criteria, it is unlikely that parents will.

How long should an assessor spend sharing his or her assessment report?

The IEP administrator and/or case carrier should establish clear ground rules in this regard and act as time keeper during the meeting. Staff should also be trained in how to make oral reports during meetings and be given time to practice. The administrator and/or case carrier should state at the beginning of the meeting that parents can always make appointments with individual assessors to gain more insight or detailed information about the assessment results. It can be helpful to put time limits on presentation of assessment results.

How often does the IEP have to be reviewed for a student who is in a NPS but not in an educationally funded residential placement?

Legally, you are only required to meet annually. However, it is advisable to meet every six months for students in an NPS setting. This enables the district to keep informed on whether the student is making progress on his/her IEP goals.

Can special education teachers meet with parents and amend an IEP without a meeting?

Legally they can, but it is best practice to have an administrator/designee and general education teacher at addendum meetings. Because special education teachers may not be aware of all of the rules and regulations governing special education, what may seem like a minor amendment to them may result in significant negative consequences for a district. Additionally, the team will need to determine how the change will affect the student in his/her general education classroom. That is why it is important for each district to decide who and how amendments will be handled.

Is there a limit to the number of IEP meetings a parent can request?

No, the number of meetings is limited by the fact that the district has 30 calendar days from the date of receipt of written request to actually hold the meeting, so several requests in a 30-day period could be combined into a single meeting.

REMINDERS

- The IEP must be reviewed annually - that means within one calendar year of the date of the last IEP or annual review.
- IEP meetings must be scheduled at a mutually agreeable time.
- The procedural safeguards must be reviewed for the parents or adult student in the IEP meeting.
- Eligibility has three elements – the existence of a disability, a rule out of certain factors for some disabilities and the determination of need for instruction and/or services that create a modification of the general school program.
- The report of assessment findings should be succinct and focus on information that relates to the development of the IEP.
- The IEP team recommends placement – the district administrator determines placement.
- There is no limit on the number of IEP meetings a parent can request per year.
- The IEP team must meet if the student’s teacher requests a meeting.
- The IEP for a student in a residential placement must be reviewed every three months.
- Both the parents and the district are required to give 24 hours’ notice in order to tape record an IEP meeting.
- The district cannot tape record a meeting if the parent objects and refuses to participate.
- The district can hold an IEP meeting without a parent in attendance in limited circumstances.
- Staff can meet and discuss a student without holding an IEP meeting, but changes to the IEP require an IEP meeting.
- The parents and district can agree to amend an IEP without holding a meeting.
- Special education teachers and parents can, and should, have conferences without holding an IEP meeting.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) – TYPE OF MEETINGS

Local Procedures

Initial IEP

The Initial IEP is convened at the conclusion of the assessments conducted to determine initial eligibility. The purpose of the initial IEP is to review all assessment data/reports, develop present levels and determine eligibility. If eligible, the team addresses all areas of need through goal development and determination of needed supports and services. Once service needs are identified, the team must consider the continuum of placement options and determine the placement most closely aligned to the general education placement the student would otherwise attend.

Annual Review

Once a student has been found eligible for special education and related services, a review of the IEP placement, related services and supplemental aids and services shall be held annually. The case carrier shall be responsible for coordination of the annual review. Whenever possible, the annual review procedures shall be conducted so the IEP that is to be the basis of an upcoming school year's programming is finalized prior to the start of the new school year. There must be an IEP in effect at the beginning of each school year.

When reviewing a student's progress at the annual IEP review, the IEP team must consider the following when determining whether changes are needed in the student's program:

1. Any lack of expected progress toward the student's annual IEP goals and in the general education curriculum, where appropriate.
2. The results of any reevaluation.
3. Information about the student provided to, or by, the parents.
4. The student's anticipated needs.
5. Any other relevant matters.

Triennial Review

A reevaluation of the student shall be conducted at least once every three years, or more frequently if conditions warrant a reevaluation or if the student's parent or teacher requests a reevaluation. If the reevaluation so indicates, a new IEP shall be developed. The triennial evaluation is described in detail in the Evaluation section of this manual.

Review

An IEP meeting shall be held at least annually and can be more frequently if requested by the parents or a member of the IEP team. The IEP review meeting must be held within 30 calendar days of the written request for the meeting. The purpose of a review IEP shall be to discuss additions and/or revisions to the IEP that are necessary to provide free appropriate public education (FAPE) for the student. For a review IEP team meeting, only the mandatory team members and those IEP team members whose services are being discussed are required to attend. All members of the IEP must receive a copy of the revised IEP document/addendum IEP.

30-Day Interim Placement/Transfer Students

If a student who has an IEP from a district outside of Humboldt - Del Norte SELPA, transfers to a district within Humboldt - Del Norte SELPA, the new district must complete the "30-day Interim IEP" form upon enrollment, and then hold an IEP meeting within 30 calendar days of enrollment. At the 30-

day IEP meeting, the new district must adopt the prior district's IEP or develop, adopt, and implement a new IEP. In either case, the new district must develop a new IEP on Humboldt - Del Norte SELPA IEP forms. The IEP meeting must take place within 30 calendar days of enrollment in the new district.

In the case of a student with an IEP who transfers to a district within Humboldt - Del Norte from out of state, the district must review eligibility and assessment results to determine if the student continues to qualify for a disability under the California Education Code and corresponding regulations. If the team believes further assessment is warranted, an Assessment Plan should be signed, and an IEP to review assessment results, determine eligibility, and develop an IEP should be held within 30 calendar days.

If a student transfers to a district from a district within Humboldt-Del Norte SELPA, the new district must accept and implement the last agreed-upon IEP. If there is some reason that the new district cannot implement the last agreed-upon IEP, the new district must hold a formal IEP meeting and amend the student's IEP.

Manifestation Determination (MD) (also see section on Discipline)

A "manifestation determination" IEP means the IEP team is required to evaluate the relationship between a student's disability and act of misconduct. A manifestation determination (MD) IEP must be held when a district proposes to take specified serious disciplinary actions which constitute a change in placement because of a violation of a code of student conduct. A manifestation determination (MD) IEP meeting must be held within ten school days of any suspension(s) that are in excess of ten cumulative school days or within ten school days of a decision to expel a student with a disability.

The manifestation review is conducted by the district, the parents and relevant members of the IEP team as determined by the district and the parent. This review does not have to be conducted by the full IEP team. The individuals involved in making the manifestation determination (MD) 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. The purpose of this review is to determine the following:

1. If the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
2. If the conduct in question was the direct result of the district's failure to implement the IEP.

If the answer to either of the previous questions is yes, the district may not go forward with the disciplinary action (except for removals due to special circumstances, i.e., weapons, drugs or infliction of serious bodily injury which can be made without regard to whether the behavior is a manifestation of the disability).

REMINDERS

- The IEP team members for a manifestation determination meeting must be determined by the district and the parent.
- Parent consent is not required for a district to take action as a result of a manifestation determination IEP meeting.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) - CONTENT

Definition

"Individualized Education Program" means a written document described in §§ 56345 and 56345.1 for a student with disabilities that is developed, reviewed and revised in a meeting in accordance with §§ 300.320 to 300.328, inclusive of Title 34 of the Code of Federal Regulations and this part. An "Individualized Family Service Plan" (IFSP) as described in § 1436 of Title 20 of the United States Code pertains to a student with disabilities younger than three years of age. Because an IFSP has its own guidelines and timelines and is not addressed in this section.

Legal Requirements

Consideration of Student Needs and Special Factors

When developing each student's IEP, the IEP team shall consider the following:

1. The strengths of the student.
2. The concerns of the parents or guardians for enhancing the education of the student.
3. The results of the initial assessment or most recent assessment of the student.
4. The academic, developmental and functional needs of the student.

The IEP team shall do the following (special factors):

1. In the case of a student whose behavior impedes his or her learning or that of others, consider the use of behavioral interventions and supports and other strategies to address that behavior, and develop at least one related IEP goal to address the behavior/s.
2. In the case of a student with limited English proficiency, consider the language needs of the student as those needs relate to the student's IEP.
3. In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille, unless the IEP team determines, after an assessment of the student's reading and writing skills, needs and appropriate reading and writing media, including an assessment of the student's future needs for instruction in Braille or the use of Braille, that instruction in Braille or the use of Braille is not appropriate for the student.
4. Consider the communication needs of the student and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode.
5. Consider whether the student requires assistive technology devices and services as defined in § 1401(1) and (2) of Title 20 of the United States Code.

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

IEP Contents

The IEP is a written statement for each student with a disability that is developed, reviewed and revised in accordance with this section, as required by § 1414(d) of Title 20 of the United States Code and includes the following:

1. A statement of the individual's present levels of academic achievement and functional performance, including the following:
 - a. The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.
 - b. For preschool student, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.
 - c. For students with a disability who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
2. A statement of measurable annual goals, including academic and functional goals, designed to do the following:
 - a. Meet the needs of the student with a disability to enable the student to be involved in and make progress in the general education curriculum.
 - b. Meet each of the other educational needs of the student that result from the disability of the individual.
3. A description of the manner in which the progress of the student toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.
4. A statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to do the following:
 - a. To advance appropriately toward attaining the annual goals.
 - b. To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.
 - c. To be educated and participate with other students with a disability and students with no disability in the activities described in this subdivision.
5. An explanation of the extent, if any, to which the student will not participate with students without disabilities in the general education class and in the activities described in subparagraph (C) of paragraph (4).
6. A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district wide assessments consistent with § 1412(a)(16)(A) of Title 20 of the United States Code.
 - a. If the IEP team determines that the student shall take an alternate assessment instead of a particular state or district wide assessment of student achievement, a statement of the following:
 - i. The reason why the student cannot participate in the regular assessment.
 - ii. The reason why the particular alternate assessment selected is appropriate for the student.
7. The projected start date, end date, duration, frequency, and location of the services, accommodations, modifications and supports for school personnel described in paragraph (4).
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following shall be included:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills.

- b. The transition services, as defined in § 56345.1, including courses of study, needed to assist the student in reaching those goals.

If appropriate, the IEP shall also include, but not be limited to, all of the following:

1. For students in grades 7 to 12, inclusive, any alternative means and modes necessary for the student to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.
2. For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs and services.
3. Pursuant to § 300.106 of Title 34 of the Code of Federal Regulations, extended school year services shall be included in the IEP and provided to the student if the IEP team of the student determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE) to the student.
4. Provision for the transition into the general class program if the student is to be transferred from a special class or nonpublic, nonsectarian school into a general class in a public school for any part of the school day, including the following:
 - a. A description of activities provided to integrate the student into the general education program. The description shall indicate the nature of each activity and the time spent on the activity each day or week.
 - b. A description of the activities provided to support the transition of students from the special education program into the general education program.
5. For students with low incidence disabilities, specialized services, materials and equipment consistent with guidelines established pursuant to § 56136. It is the intent of the Legislature in requiring IEPs, that the district is responsible for providing the services delineated in the IEP. However, the Legislature recognizes that some students may not meet or exceed the growth projected in the annual goals and objectives of the IEP of the student.
6. Consistent with § 56000.5 and § 1414(d) (3) (B) (iv) of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of the services that constitute an appropriate education to meet the unique needs of a deaf or hard-of-hearing student in the least restrictive environment, the IEP team shall consider the related services and program options that provide the student with an equal opportunity for communication access. The IEP team shall specifically discuss the communication needs of the student, consistent with "Deaf Students Education Services Policy Guidance" (57 Fed. Reg. 49274 (October 1992)), including all of the following:
 - a. The student's primary language mode and language, which may include the use of spoken language with or without visual cues, the use of sign language or a combination of both.
 - b. The availability of a sufficient number of age, cognitive and language peers of similar abilities, which may be met by consolidating services into a local plan area wide program or providing placement pursuant to § 56361.
 - c. Appropriate, direct and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with existing law regarding teacher training requirements.
 - d. Services necessary to ensure communication accessible academic instructions, school services and extracurricular activities consistent with the federal Vocational Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

- e. In accordance with § 300.113 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that hearing aids worn in school by student with hearing impairments, including deafness, are functioning properly.
 - f. Subject to paragraph (7), each public agency, pursuant to § 300.113(b) of Title 34 of the Code of Federal Regulations, shall ensure that external components of surgically implanted medical devices are functioning properly.
 - g. For a student with a surgically implanted medical device who is receiving special education and a service under § 56363, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.
7. Beginning not later than one year before the student reaches the age of 18 years (age 17), a statement that the student has been informed of the student's rights under this part, if any, that will transfer to the student upon reaching the age of 18 years pursuant to § 56041.5.

Note: The IEP team is not required to include information under one component of a student's individualized education program that is already contained under another component of the IEP. This section does not require that additional information, beyond that explicitly required by § 1414 of Title 20 of the United States Code and this part, be included in IEP of a student.

Transition Services

The term "transition services," as defined in § 1401(34) of Title 20 of the United States Code and as used in subparagraph (B) of paragraph (8) of subdivision (a) of § 56345, means a coordinated set of activities for a student with a disability that does all of the following:

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

In accordance with § 300.43(b) of Title 34 of the Code of Federal Regulations, transition services for students with a disability may be special education, if provided as specially designed instruction or a designated instruction and service, if required to assist a student to benefit from special education.

When appropriate, other agencies may participate in the services for students. In the event that agency fails to provide the transition services described in the IEP of the student in accordance with § 1414(d) (6) of Title 20 of the United States Code and paragraph (8) of subdivision (a) of § 56345, the district shall reconvene the IEP team to identify alternative strategies to meet the transition service needs for the student set out in the program.

Special Education Transportation

The IDEA defines "transportation" as including:

1. Travel to and from school and between schools;
2. Travel in and around school buildings; and
3. Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a student with a disability.

Services Based on Peer-Reviewed Research

To the extent practicable, services for students with disabilities will be supported by peer reviewed research. Although this is always best professional practice, IEP teams are not restricted in the use of services with lesser research support.

Legal References

EC 41850; EC 56032; EC 56043; EC 56341.1; EC 56345; EC 56345 (a)(4); EC 56345.1, GC 7572, 34CFR 300:22; 34CFR 300:34; 34CFR 300:320; CFR 300.320 (a)(4); 34CFR 300:324

Timelines

An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 calendar days (45 calendar days from referral for Early Start), not counting days between the student's general school sessions, terms or days of school vacation in excess of five school days, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to § 56344.

Local Procedures

In order for an IEP to be considered compliant, it MUST contain the necessary elements described above. If any of the required elements are missing, the resulting document does not meet the definition of an IEP and will not be considered compliant.

The general directions for writing an IEP can be found in the Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library. If the directions in the manual are followed correctly and the IEP is filled out in its entirety, the IEP will be compliant.

While the main purpose of the IEP Manual is to teach a person to write a computerized IEP, it also does a good job explaining the required contents of the IEP and the various state and federal reporting requirements. The following information is designed to supplement the manual.

Present Levels of Performance

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Special Factors

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Behavior

The IEP team must decide whether the behavior impedes the student's learning or the learning of others. If it does not, the team should check the 'no' box and go to the next factor. If it does impede learning,

the team should check ‘yes’ and indicate the types of interventions, strategies or supports the student will require, e.g., classroom incentive system, highly structured environment, reduced academic demands, increased adult attention, special cues/prompts, etc.

In order to address this special factor, the IEP team will need to determine whether the behavior in question rises to the level of serious behavior problem that would necessitate a Functional Behavior Analysis (FBA) and a related Behavior Intervention Plan (BIP). Example behaviors would be behaviors that are self-injurious, assaultive, or cause serious property damage, and other severe behavior problems that are pervasive and maladaptive for which instructional/behavioral approaches specified in the student’s IEP are found to be ineffective (be specific identifying behavior in the IEP). The team also has the option of including a BIP and/or behavioral objectives to address the behavior. Goals and objectives are usually the first level of intervention, followed by a FBA and/or a BIP if the behavior continues over time

Caution: Unless the IEP team provides a logical explanation to the contrary, if a student’s behavior impedes learning of self or others, it is imperative that the team address the behavior with goals/objectives, interventions and/or a behavior plan.

English Learners

Each district should ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing, including any necessary supplementary authorization to provide English language development and primary language support.

If a student is limited English proficient, the team will have to consider the language needs of the student and indicate what interventions/services the student requires. This is recorded in the Special Factors section of the IEP. Indicate the types of interventions, strategies or supports the student will require such as test in small groups, simplify instructions, use picture dictionary, pre-teach vocabulary, use additional explanation and examples to draw the connection between new material and their existing knowledge bases, use objects, photographs, or other materials as examples to build on student’s language, use visual organizers and graphics to organize, illustrate, and point out key points, use demonstrations or role playing to illustrate a concept, provide this student with notes or an outline of the lesson for their later review of what was presented, and allow time for students to discuss what they learn and generate questions in areas that require clarification.

Each district should maintain procedures for the accurate identification of English learners and an assessment of their proficiency and needs in the areas of listening, speaking, reading, and writing in English. Once identified as an English learner, a student shall be annually assessed for language proficiency until he/she is reclassified based on criteria specified in the current law, using the English Language Proficiency Assessments for California (ELPAC).

EC 56305, as added by AB 2785 (Ch. 579, Statutes of 2016), requires the CDE to develop, by July 1, 2018, a manual providing guidance on identifying, assessing, supporting, and reclassifying English learners with disabilities.

The team must determine and record if the student will be taking the ELPAC with or without accommodations or taking an alternate test to determine language proficiency.

Visually Impaired Students - Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Communication Needs - Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Assistive Technology (AT)

This special factor applies to all students regardless of disability. Devices can be as simple as a pencil grip for a student with fine motor problems to sophisticated communication system for a student with Cerebral Palsy. For students with low incidence disabilities (visually impaired, hearing impaired and severely orthopedically impaired), however, the IEP team will have to include the appropriate low incidence teacher. Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Annual Goals/Objectives

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Progress Reports

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Services

Special education and related services, including frequency, intensity, duration and location, are to be provided in accordance with the IEP. Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Service providers should record and document all services to confirm that the special services were provided as indicated on the IEP.

Be sure to include specialized physical health care services when needed by an eligible student. The plan should indicate which staff is responsible and provide for instructions regarding medication administration and other medically necessary services during school hours, on the school bus, and at extracurricular activities or school sponsored activities such as field trips.

Assistive technology services (AT) should almost always be written in the IEP as Supplementary Aids and Services. Assistive technology (AT) services are usually indirect support activities affecting how the student communicates and interacts in the educational environment. Assistive technology (AT) is rarely a related service and only when the assistive technology services directly and regularly provide instruction for a student. Assistive technology (AT) should never be written in the notes section of an IEP.

Intensive Individual Instruction

Intensive individual instruction is a special education service. The IEP Manual defines it as follows: IEP team determination that student requires additional support for all or part of the day to meet his or her IEP goals. This is also known as a one-on-one instructional assistant or aide or a Special Circumstance Instructional Assistant (SCIA).

OAH has consistently found that a placement in general education with a 1:1 aide and that one-on-one support is often not the Least Restrictive Environment for a student. For this reason, the IEP team should, as with any other IEP related decision, make their determination based on an assessment. The Humboldt - Del Norte SELPA has written guidelines for determining if a Special Circumstance Instructional Assistant is needed and districts are strongly encouraged to use this procedure when determining the level of additional supports for students. Contact the Humboldt - Del Norte SELPA for guidelines in determining if a SCIA is necessary. APPENDIX G

Participation with Students with no disability needs

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Testing Accommodations

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Transition Plans (For Students 16 Years and Older)

See Transition Plan and Transition Services sections of the IEP Manual.

Note: Requirements pertaining to the California High School Exit Exam (CAHSEE) are subject to change. Staff should check the CDE website (www.cde.ca.gov) or contact the SELPA for current information.

Alternative Means/Modes

There is a section in the IEP titled Promotion Criteria located on the Educational Setting page that allows the IEP team to write alternative methods for students in grades 7-12 to meet district graduation criteria. The team can select to use district standards, student progress on IEP goals or write some other means for a student to meet graduation criteria. Alternative means/modes pertain strictly to the district course of study and district graduation standards, not the California High School Exit Exam (CAHSEE). The CAHSEE is addressed under Transition Services.

Linguistically Appropriate Goals and Objectives

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Transition into General Education

When a student is transitioning from a special day class (SDC) or NPS to a general education classroom, the law requires that the IEP include a plan for that transition. In other words, who is going to do what, for how long, to ensure that the student is successful in the new environment? Students who move from a more restrictive to a less restrictive environment need additional supports for a period of time to prevent them from regressing behaviorally or academically. Although the law only addresses these two examples, it is a good idea to consider and, when appropriate, develop transition strategies for students when they move from SDC to services in specialized academics instruction (SAI), elementary to secondary, preschool to kindergarten, etc.

Extended School Year

Extended school year (ESY) is not the general education summer school program. Extended school year is a special education service in excess of the general school year provided to identify students with

disabilities solely based on need. The IEP team must determine ESY based on each individual's unique needs. According to the California Code of Regulations, students eligible for ESY shall have disabilities which are likely to continue indefinitely or for a prolonged period of time, where interruption of the educational programming may cause regression, which is coupled with limited recoupment capacity, rendering it impossible or unlikely that the students will attain the level of self-sufficiency and independence that would otherwise be expected in view of their disabilities. Most students show some degree of regression especially after long school breaks. Regression becomes a problem when combined with recoupment difficulties. All students go through a period of recoupment at the beginning of each school year. Teachers spend the first couple of weeks or so reviewing information until the students catch back up and are ready for new information. But when a student takes an inordinate amount of time, at least beyond two weeks, to relearn previously learned information, it is safe to say that recoupment is a problem. Teachers should, therefore, monitor student performance with work samples and/or curriculum based data before and after school breaks like winter break and spring break to present to the IEP team as evidence of any regression/recoupment problem.

While recoupment/regression is a reliable standard for determining ESY, it is not the only one. Sometimes this information is not available and the IEP team cannot postpone a decision until the student actually demonstrates regression or failure. In these instances, the IEP team should consider other variables such as:

1. The severity of the student's behavioral/physical problems.
2. Areas of the student's curriculum that require continuous attention.
3. Whether the student requires the service in order to make adequate progress toward the goals and objectives on the IEP.

Based on this information, is ESY necessary in order for the student to make progress in their educational program? If the answer is yes, the student is entitled to ESY.

Determination of Services

The IEP team must then decide what services the student requires during ESY. The team must focus only on the critical skills or areas that are necessary for the student to maintain a reasonable readiness to begin the next school year. The student may not require all or the same services listed in the IEP. For example, a student may be making excellent progress in speech but is not making adequate progress toward his/her academic goals. The team may decide to only provide specialized academic instruction during ESY. The student is not entitled to any specific placement during ESY. State regulations require the ESY session to be at least 20 days, including legal holidays; however, determination of the length of the ESY session should be individualized for each student. If the team only checks the box indicating the student requires ESY but does not specify the services, the student is entitled to the same level and type of services in the IEP.

SELPA has ESY checklists for IEP teams to determine necessity of ESY. These can be found in the SEIS document library as well as each student's list of IEP forms in SEIS.

Low Incidence Materials and Equipment

Refer to State SELPA Forms Manual Writing IEPS for Education Benefit in the SEIS Document Library.

Transportation

Whenever possible, students with disabilities should ride the regular school bus to and from school. When the disabling condition of a student is such that the student requires special transportation services in order to benefit from their educational program, the IEP team has the responsibility to include transportation services in the IEP.

Definition

Specialized transportation services are determined by the IEP team. Generally, this refers to any transportation arrangement in excess of riding the regular school bus to and/or from a regularly scheduled school bus stop. Specialized transportation services may include but are not limited to the following:

1. To and from home or the neighborhood school and the school of attendance.
2. Between schools for purposes specified in the IEP.
3. To and from work stations when specified in the IEP.
4. To and from a California Children's Service Medical Therapy Unit.
5. To and from a mental health service.

Team Decisions

It is the responsibility of the IEP team to determine when transportation services should be included in the IEP as a related service. The decision must be made on a case-by-case basis and be based on the unique needs of the student and the basic concept of least restrictive environment.

Residential Placement Requirements

Students who are in residential placements and attend NPSs are entitled to transportation services to and from their parent's home at specified times during the year. Whether the student is allowed to visit home during school breaks is dependent in part on rules established by the residential placement and limitations imposed by the court or placing agency. While there is no specific requirement with regard to the frequency of these visits, IEP teams should give primary consideration to major school breaks during the school year based on the NPS school calendar. When students are not allowed to leave the residential placement, the IEP team will consider providing transportation for the parents to make a reasonable number of visits to the student based on the NPS school calendar. See the SELPA Residential Treatment Center Guidelines for more information. APPENDIX I

Service Delivery

It is the responsibility of the DOR to make arrangements for all transportation services described in the student's IEP. The district may provide service themselves, through contract arrangement with another public or private agency or by paying the parent for providing in lieu services.

Mode of Service

The district providing transportation service will determine the method of providing transportation services.

Scheduling

Students with disabilities are entitled to arrive at and depart school at the same time as general education students. The use of alternative starting times for a student with a disability at a site can lead to program compliance concerns. Students receiving special education and related services must be provided with an educational program in accordance with their IEP for at least the same length of time as the general school day for their chronological peer group, unless otherwise stated in a student's IEP.

Transportation to and from related services, e.g., occupational therapy, physical therapy, mental health counseling, etc., will be scheduled during the school day to the maximum extent possible. When related services cannot be provided during the school day, transportation will be provided before or after the school day.

IEP Team Meeting Notes

1. Before the IEP meeting, the district should identify the Note Taker, which should be a district employee and member of the team.
2. Focus on writing IEP meeting comments that document compliance with procedural obligations, including parental participation.
3. Document IEP team member attendance, excusal, opinions, agreement, dissent and participation.
4. Clarify offer of placement and services when necessary.
5. Summarize comments with regard to assessments and progress towards goals.
6. Provide prior written notice (PWN) if not done before or after the IEP meeting.
7. The Note Taker should:
 - a. Generally, paraphrase comments.
 - b. Write contemporaneously.
 - c. Use neutral, non-inflammatory language.
 - d. Avoid acronyms.
 - e. Proofread comments for accuracy and consistency with the entire IEP team.
 - f. Identify next steps and parking-lot items.
 - g. Obtain prior approval / direction from the special education administrator when writing reimbursement, compensatory education, stay put and settlement, as well as when the IEP was convened pursuant to an order, ruling or settlement agreement.
 - h. Note parent concern and write district response to those concerns.
 - i. Summarize Offer of FAPE and whether consent was obtained in part or whole.
8. The Note Taker is generally not required to:
 - a. Specify providers by name.
 - b. Identify a particular methodology.
 - c. Describe staff qualifications.
 - d. Write redundant information.

Local Forms

IEPs must be written on SELPA approved forms. IEP forms must be completed through the web-based IEP system, SEIS. Hard copies of the forms can be found in the SEIS Document Library or on the SELPA website www.hdnselpa.org

FAQs

What do we put down for ESY if the student is going to go to general summer school?

If that is really the case, meaning that the student does not need ESY services and is just going to attend general education summer school, indicate "No" the student does not require ESY, because general summer school is not ESY. If, however, the student is going to attend the general summer school but will receive special education services at summer school, check the 'yes' box and indicate the services the student will receive. Students should receive needed accommodations and services to access the general summer school so as to ensure they are not discriminated against based on their disability.

How should we address ‘transportation’ in the IEP for our students with disabilities if they ride the school bus?

Regardless of their disability, if they ride the regular school bus from a regular bus stop, you should check the ‘no’ box. You are providing general education transportation.

Can we provide specialized transportation without putting it in the IEP?

In order for the IEP to constitute a good offer of FAPE, it must include all of the services necessary in order for the student to benefit from their educational program. To leave a service out of the IEP when you know a student requires it jeopardizes the IEP’s offer as an appropriate offer of FAPE.

If we write an IEP to monitor a student, do we have to include goals and objectives?

An IEP should not be written to monitor a student. If a student does not have special education needs, then he/she is ineligible. Every IEP needs goals (and objectives for some students) in order to be legally compliant, and those goals should address the ways the student’s disability affects his/her access to the general school program.

Should the areas of parent disagreement be written into the IEP?

It is appropriate to list certain areas of disagreement but not necessarily every area of disagreement. If the parent consents to part of the IEP but not all parts of the IEP, their areas of disagreement are recorded in the parent consent section. If the parent wants to express disagreement about matters outside the scope of the IEP, it is not appropriate to include that in the IEP. Remember, federal law clearly states that the IEP team is not required to include information in an IEP that is not required by law.

REMINDERS

- In order to meet the legal requirements of an IEP, you must always complete each section of the IEP (addendums excluded).
- The IEP team must address the assistive technology needs for every student, regardless of disability.
- Never check ‘yes’ a student’s behavior impedes learning without including interventions, goals and/or a BIP as appropriate.
- ESY is not an entitlement. Always address ESY based on eligibility and include services as necessary.
- General education summer school is not ESY.
- Only put special transportation in the IEP when it is required in order for the student to benefit from their educational program.
- SCIA support should never be included in an IEP without conducting an assessment of the student and the learning environment.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) – GOALS AND OBJECTIVES

Legal Requirements

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

The IEP is a written statement for each student with a disability that is developed, reviewed, and revised in accordance with this section, as required by § 1414(d) of Title 20 of the United States Code, and includes the following:

A statement of measurable annual goals, including academic and functional goals, designed to do the following:

1. Meet the needs of the individual that result from the disability of the individual to enable the student to be involved in and make progress in the general education curriculum.
2. Meet each of the other educational needs of the student that result from the disability of the individual.
3. Beginning not later than the first IEP to be in effect when the student is 16 years of age, and updated annually thereafter, the following shall be included:
4. Appropriate measurable post-secondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.

If appropriate, the IEP shall also include, but not be limited to the following:

1. For s whose native language is other than English, linguistically appropriate goals, objectives, programs and services.

Legal References

EC 56345, 5 CCR 3040

Local Procedures

The most important part of the IEP is the development of appropriate and measurable goals and objectives. The IEP team should ensure that:

1. The assessment is comprehensive.
2. Present levels of performance accurately reflect all areas of assessment findings and are reported in family friendly language.
3. Identified needs are directly related to present levels of performance.
4. Accurate baseline data is established for each area of need. Baseline data should be quantitative, and not subjective.
5. Goals are written to be measurable against the baseline data.

Assessment of Areas of Need

Assessment generally begins by using instruments or methods that are broad in scope. It might begin with a standardized test such as the Woodcock Johnson Psychoeducational Battery in order to get age equivalency scores in math, language arts, etc. But age equivalency alone is not helpful for describing present levels of performance and it is not helpful as baseline data for goals. The next step is to administer some form of curriculum-based measurement (CBM) or a grade-level or content-level standards based common assessment. This informal level of assessment can be developed based on information obtained from the classroom teacher, from a review of work samples, from a review of the

grade level content standards being targeted for the student, etc. It usually involves teacher-made tests designed to assess a student’s present level of performance in the actual classroom curriculum or on specific state content standards. It should result in succinct descriptions of a student’s present levels of performance, both their level of mastery and level of need, for each area evaluated.

Following are examples of good and poor descriptions of student performance levels:

Good Examples:	Poor Examples:
Student reads 40 words correctly per minute in a second grade reading text.	Student reads at 2.2 grade level.
Student writes a topic sentence and 3 supporting sentences with 80% spelling accuracy.	Student needs to learn to write complex sentences.
Student counts, reads and writes whole number to 1000 and identifies place value for each digit.	Student knows numbers and values.
Student will play a board game with one other student, taking turns and sharing materials, for 5 minutes.	Student fights frequently.
Student’s anxiety causes her leave class when she becomes anxious over assignments. Student is most commonly agitated by math assignments.	Student has a diagnosis of anxiety.

Based on the present levels of performance, the IEP team must identify the primary areas of need to be included in the IEP. The IEP goals must address each area of need and be consistent with the present levels of performance. All IEP goals must be linked to grade-level core content standards.

In 2012, the state of California adopted and implemented the Common Core State Standards (CCSS) in English and math. In order to make informed decisions about each student’s strengths and needs, the IEP team should consider how the student is performing in relation to the state’s grade level content standards for the grade in which the student is enrolled. There are seven major steps that educators can take to develop a standards-based IEP.

Step 1: Consider the grade-level content standards for the grade in which the student is enrolled or would be enrolled based on age. ASK:

1. What is the intent of the content standard?
2. What is the content standards saying that the student should know and be able to do?

Step 2: Examine classroom and student data to determine where the student is functioning in relation to the grade-level standards. ASK:

1. Has the student been taught content aligned with grade-level standards?
2. Has the student been provided appropriate instruction scaffolding to attain grade level expectations?
3. Were the lessons and teaching materials used to teach the student aligned with state grade level standards?

4. Was the instruction evidence-based?

Step 3: Develop the present level of academic achievement and functional performance. Describe the individual strengths and needs of the student in relation to accessing and mastering the general curriculum ASK:

1. What do we know about the student's response to the academic instruction (e.g., progress monitoring data?)
2. What programs, accommodations (i.e., classroom and testing) and/or interventions have been successful with the student?
3. What have we learned from previous IEPs and student data that can inform decision making?
4. Are there assessment data (i.e., state, district, and/or classroom) that can provide useful information for making decisions about the student's strengths and needs (e.g., patterns in the data)?
5. Consider the factors related to the student's disability and how they affect how the student learns and demonstrates what he or she knows. ASK
6. How does the student's disability affect participation and progress in the general curriculum?
7. What supports does the student need to learn the knowledge and attain the skills to progress in the general curriculum?
8. Is the student on track to achieve grade-level proficiency within the year?

Step 4: Develop measurable annual goals aligned with grade-level academic content standards. ASK:

1. What are the student needs as identified in the present level of performance?
2. Does the goal have a specific timeframe?
3. What can the student reasonably be expected to accomplish in one school year?
4. Are the conditions for meeting the goal addressed?
5. How will the outcome of the goal be measured?

Step 5: Assess and report the student's progress throughout the year. ASK:

1. How does the student demonstrate what he/she knows on classroom, district, and state assessments?
2. Are a variety of assessments used to measure progress?
3. How will progress be reported to parents?

Step 6: Identify specially designed instruction including accommodations and/or modifications needed to access and progress in the general education curriculum. ASK:

1. What accommodations are needed to enable the student and were they effective?
2. Has the complexity of the material been changed in such a way that the content has been modified?

Step 7: Determine the most appropriate assessment option. ASK:

1. What types of assessments are offered in my state?
2. What types of responses do different state assessments require?
3. What are the administrative conditions of the assessment? (i.e., setting, delivery of instructions, time allotted, etc.)
4. What accommodations are allowed on the assessment(s)?
5. Are the accommodations approved for the assessment also used in the classroom?
6. Has the student received standards-based, grade-level instruction?
7. Was the instruction evidence based?

8. What is the student’s instructional level?
9. How different is the student’s instructional level from the level of typical peers?
10. Can the student make progress toward grade-level standards in the same timeframe as typical peers? (If no, consider modified academic achievement standards.)
11. What can be learned from the student’s previous state assessment results?
12. Can the student demonstrate what he/she knows on the assessment option under consideration?

Baseline to Goals

Establishing proper baseline data is the most important step in developing good goals and is often misunderstood. Baseline data should clearly allow a team to measure progress on a goal. Very often, there is quite a stretch between the baseline data and the goal as in the following example:

1. Baseline Data – WJ Reading 2.2
2. Goal – student will read a 3rd grade reading text at the rate of 100 words per minute with 95% accuracy as measured by CBM tracking.

The assumption in this example is that, if the student is reading at the 2.2 grade level, a 3rd grade level goal should be reasonable. Unfortunately making this type of assumption can be a mistake. While going from second grade to third grade doesn’t seem like much of a stretch, it might if the baseline data had been directly related to the goal. The baseline data does not make clear at what rate or accuracy the student is reading 2.2 grade-level texts. That is what happens when a standardized score is used as baseline data for a goal that measures actual performance in classroom curriculum.

As the previous example suggests, there should be a direct link between the baseline data and the goal. The simplest way to think of it is that the baseline data should be the student’s actual present performance level on the goal.

Following are a few examples:

Baseline:	Goal: (abbreviated)
1st. Grade – 100 wpm 95% acc. 2nd. Grade – 95 wpm 90% acc. 3rd. Grade – 55 wpm 60% acc.	3rd. Grade – 95 wpm 90% acc.
Task - Multiplication facts worksheets – 50 facts – time limit 3 minutes Multipliers 1-5 – 45 correct Multipliers 1-7 – 40 correct Multipliers 1-9 – 25 correct	Given a worksheet with 50 multiplication facts with numbers 1-9, complete the sheet in 3 minutes with 90% acc.
Student matches list of 20 grocery items to actual grocery item in the classroom with 100% acc.	Given a shopping list of 20 items, locate items in the grocery store with 90% acc.
Student finds items in a grocery with verbal prompts with 100% acc.	
Student finds items in grocery store from a list of 20 items with 40% acc.	

Student catches a 9” rubber ball from a distance of 3 feet 9 out of 10 trials.	Catch a 9” rubber ball from a distance of 5 feet 8 out of 10 trials	
Student catches a 9” rubber ball from a distance of 5 feet 3 out of 10 trials.		
Student takes turns and shares materials while playing a board game in the classroom with one other student.		Given a structured play situation, student will interact with one other student for 5 minutes during recess.
Student wanders playground alone during recess		

If the IEP team drafts a goal for a need for which it does not have specific baseline data, best practice is to add that data into the IEP within the next month, once the appropriate personnel has had time to measure and establish the baseline data.

Writing Goals

Once baseline is established, the actual writing of the goal must include 6 key components.

Key Component:	Definition:
1. Who	Student name
2. When	Target completion date (by June 6, 2XXX) (typically the next annual IEP meeting date)
3. When given	Conditions (when given a grade level passage to read)
4. Does what	Observable behavior (will complete a worksheet with single digit addition)
5. Accuracy	Mastery criteria (90% accuracy, 3 consecutive days)
6. How will it be measured?	Assessment/monitoring (CBM, teacher charting, work samples, district and state assessments, etc., including frequency of assessment/monitoring)

Aligning Goals and Objectives with Standards

Students with disabilities must have access to the general education curriculum. One way to accomplish this is to make sure academic goals and objectives are aligned to the CCSS.

Goals for Students Taking the California Assessment of Student Performance and Progress (CAASPP)

In order to make sure goals are properly aligned for students taking the CAASPP, teachers are to use the CST assessment blueprints. The assessment blueprints help IEP teams identify which standards are heavily weighted on state assessments. IEP teams are encouraged to cross reference the students' identified areas of need and the standards that are listed on the CST assessment blueprints. IEP teams are encouraged to select standards that are in alignment with current state assessments for the purpose of building relevance for student participation and measurement of student growth in grade level content standards. Results from the state assessments will become another measure of student performance that supports IEP teams in determining whether a student has demonstrated their ability to close their current achievement gap in relation to current grade level content standards. Teachers are to begin the selection process by reviewing the current grade level standard and, based on the identified areas of student needs, either modify a grade level goal by deconstructing the standard into measureable learning targets or trellis down the content standard strand to a lower grade level standard that is aligned to the identified area of need. Goals are not necessary if the student is learning the grade level content without accommodations or modifications. The following example demonstrates how to use the goal bank:

Robert is a 5th grade student who comprehends at 4th grade level, with some difficulty differentiating main idea from details, but decoding skills are below first grade. Grade level goals are appropriate for Robert in the area of comprehension but decoding goals will have to be based on a lower grade level.

Decoding Goal

He can identify 70% of initial sounds but only 50 of medial and final sounds in one syllable words. The first grade standard 1.1.4, "When presented with 25 one syllable words orally, will identify initial, medial and final sounds with 90% accuracy," is appropriate to address this area of need.

Comprehension Goal

Comprehension can be addressed by using grade level goal 5.2.3 and modifying it by including an audio recording of the 5th grade passage, e.g., "...after reading a 5th grade narrative text of 1,000 words or less with an audio tape, Robert will state the main idea of the text, identify four evidentiary statements, and explain why the statements support the main idea with 80% accuracy."

Goals for Students Taking the California Modified Assessment (CMA)

Teachers are to use the same procedures for students taking the CMA as for students taking the CAASPP.

Goals for Students Taking the California Alternate Assessments (CAAs)

Teachers should be familiar with the core content standards that are referenced on the CAA blueprints. They should also be aware of the appropriate assessment level for each of their students. All academic goals must be derived from the appropriate CAA standard. For current information about the content standards that are referenced on the CAA, teachers should visit the CDE website under Testing and Accountability (<http://www.cde.ca.gov/ta/tg/ca/altassessment.asp>) or the CDE Testing website: <http://www.cde.ca.gov/ta/tg/>.

Goals for Students with Speech and Language Needs

Speech teachers should collaborate with the general education teacher regarding core curriculum and grade level language/vocabulary expectations. They are to cross-reference their proposed goals and objectives with the associated CAASPP assessment blueprints to assure standards-alignment.

Goals for English Learners

Creating EL goals is a multi-step process as follow:

1. Identify the student's current level of English proficiency from the most current ELPAC test.
2. Based on the students ELPAC English language proficiency level and current grade placement, identify the corresponding ELD standards that align with the assessed area of need.
3. Refer to the ELPAC assessment blueprints to inform the writing of goals and objectives in the area/s of listening, speaking, reading, and/or writing.
4. Refer to the publication called "Meeting the Needs of English Learners with Disabilities" resource book, published by the State SELPA (available in the SEIS Document Library).
5. Select the corresponding ELD standard. (Please note that these standards are aligned to the ELA standards).

Post-Secondary Goals

All students aged 16 or older should have a minimum of one transition goal in each indicator area. These goals should vary and be individualized for each student. The IEP team should not assume that, because a student is high academically, that he or she has no needs in any of the indicator areas.

Non-Academic Needs

A student might have needs that impede his or her ability to access his or her education but are not academic in nature. The IEP team should ensure that appropriate goals are developed in these areas as well. Some areas of non-academic need that IEP teams sometimes neglect to identify are: attendance, social/emotional, and behavioral.

FAQs

Does every service provider have to develop their own goals?

Not necessarily, each service on the IEP should relate to at least one goal in the IEP. If a service provider is supporting an existing goal on the IEP, it is not necessary to write additional goals. Service providers such as occupational therapists and behaviorists often support IEP goals despite not delivering direct services to the student.

Do goals have to be at the student's grade level?

To the maximum extent possible, grade level goals should be modified in order to meet the student's needs, but if a student is clearly not able to perform at or near grade level, even by modifying the goal, teachers should write or select a goal from the appropriate grade level. Teams should attempt to align goals with appropriate grade-level CCSS by relying on the scaffolding in the CCSS.

REMINDERS

- Goals must address every area of need identified from the present levels of performance.
- Baseline data and the measurement method listed in the goal must directly relate so that goal progress can be measured.
- Baseline data is the student's current level of performance on the actual goal.
- There are six key components that must be included in every goal and objective.
- Academic goals must be aligned with state standards.
- Staff should check the CDE website periodically throughout the year for changes in CAASPP, CMA, CAA and ELPAC requirements and for writing standards based goals.
- Generally, you do not want to reference a specific program or methodology in a goal.
- Not everything available in SEIS is aligned with state standards nor does it comply with the rules of proper goal development. While they are all credible resources, staff should review them with caution and modify them as appropriate. In particular staff should be careful to avoid:
 1. Copying goals that don't contain the 6 key components.
 2. Including specific methodology in a goal – for example instead of referencing 'SDAIE' say something like 'given an auditory and visual prompt' or instead of a 'sensory diet' say 'given a variety of tactile experiences.'

INDIVIDUALIZED EDUCATION PROGRAM (IEP) – INFORMED CONSENT

Definition

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language, or other mode of communication.
2. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought and the consent describes the activity(s) and lists records (if any) that will be released and to whom.
3. The parent understands that granting consent is voluntary and may be revoked at any time. If consent is revoked it is not retroactive and does not negate an action that has occurred after consent was given and before it was revoked.

Note: Although it is not specified in statute, when a parent expresses their intention to revoke consent, it is recommended that districts require the revocation be submitted in writing. district should get as much information about what is being revoked, including up to consent for the student to receive any special education.

Legal Requirements

Districts shall seek to obtain parent consent before providing special education and related services to the student. The district shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to a student.

If the parent of the student fails to respond and/or refuses to consent to the initiation of services, the district shall not provide special education and related services to the student by utilizing due process procedures described in EC § 56506 in order to obtain agreement or a ruling that the services may be provided to the student.

If the parent of the student refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide the consent, both of the following are applicable:

1. The district shall not be considered to be in violation of the requirement to make available a free appropriate public education (FAPE) to the student or the failure to provide the student with the special education and related services for which the district requests consent.
2. The district shall not be required to convene an IEP team meeting or develop an IEP under this part for the student for the special education and related services for which the district requests consent.

If the parent or guardian of a student with disabilities refuses any services in the IEP after having consented to those services in the past, the district shall file a request for due process pursuant to EC § 56500 if the services are necessary for provision of free appropriate public education (FAPE).

If the parent of the student consents in writing to the receipt of special education and related services for the student, but does not consent to all of the components of the IEP, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the student.

With the exception of the parent of a student who fails to respond to a request for consent or refuses to consent to the initial provision of services, if the district determines that the proposed special education program component to which the parent does not consent is necessary to provide a free appropriate public education (FAPE) to the student, a due process hearing shall be initiated in accordance with EC § 56500. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. While a resolution session, mediation conference, or due process hearing is pending, the student shall remain in his or her current placement, unless the parent and the district agree otherwise. This is known as “stay put.”

Legal References

EC 56346, 34 CFR 300.9; 300:300

Local Procedures

Initial Consent for Services

In the case of an initial referral and evaluation, the district shall make a reasonable effort to obtain parent consent for the initiation of services. In order to meet the requirements for reasonable efforts, the district must document its attempts to obtain consent such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of IEP meeting notices and other correspondence sent to parents and responses received; and
3. Detailed records of visits made to the parent’s home or place of employment and the results of those visits.

If the parent does not respond or refuses to consent to the initiation of services, the district is not required to take any action. The district is not required to hold an IEP meeting and is not in violation of its obligation to provide a free appropriate public education (FAPE). Under no circumstances should the district file due process against the parent in order to obtain a judgment to be able to provide service.

If the parent consents in writing to their student's receipt of special education and related services, but does not consent to all of the components of the IEP, the district will implement that portion of the IEP that the parent approved. If, however, the district determines that the program component(s) of the IEP that the parent did not approve is/are necessary to provide a free appropriate public education (FAPE) to the student, the district must file for a due process hearing.

Consent for Services Provided in the Past

If the parent or guardian of a student with a disability refuses all services in the IEP after having consented to those services in the past, the district shall file a request for due process and continue implementing the last consented-to IEP, unless the parent is revoking all rights to special education services.

If the parent consents in writing to the receipt of special education and related services, but does not consent to all of the components of the IEP, the district will implement that portion of the IEP that the parent approved. If, however, the district determines that the program component(s) of the IEP that the parent did not approve is/are necessary to provide a free appropriate public education (FAPE) to the student, the district will file for due process.

A district may be obligated to continue implementing components of a prior IEP if the parent does not consent to the related component in the new IEP. For example, if a prior IEP includes direct speech services for 1 hour per week, and the current IEP offers consultation speech services for one hour per month, the district must continue implementing the direct speech services for one hour per week until the parent consents to the change to consult services.

Note: If the parent verbally consents to all or part of the IEP but refuses to sign the IEP, it should be treated the same as a refusal. In this case the prior IEP stays in effect (stay put). Nothing in the proposed IEP may be implemented without written parent consent.

FAQs

What should I do if the parent demands the proposed IEP be implemented but refuses to sign the IEP?

Make sure they understand that the proposed IEP cannot be implemented without signed consent. If the parent is opposed to something in particular, remind them that they can limit their approval to certain components of the IEP. If he/she still won't sign, you are recommended to file for due process. It is often useful to contact the SELPA when this situation arises and schedule a meeting with the parent and a SELPA representative.

What if the parent provides consent to only a portion of the IEP?

It is possible that this will require the district to file for due process. Districts are encouraged to consult with the SELPA and/or legal counsel in this situation, particularly with regard to an initial IEP.

What if an adult student signs the IEP but the parent does not?

Provided that the student is not conserved, an adult student is authorized to give consent to the IEP. Parent consent in this case is not required.

What if parents (typically separated or divorced) have shared legal custody and one signs the IEP but the other disagrees with the IEP and refuses to sign?

Either parent is able to provide consent to implement an IEP. However, the other parent can revoke the first parent's consent. In situations like this, it is important to determine whether the disagreeing parent is refusing to consent to the IEP or if he/she is simply in disagreement with the IEP but is okay with letting the other parent's consent stand. In order to be safe, however, the district should contact legal counsel if it is unsure whether or not it can implement an IEP where parents disagree on consent.

What if the parent refuses to sign the new IEP?

If the parent does not sign the IEP, the district must continue to implement the last consented-to IEP and, at the same time, attempt to resolve the parent's concerns regarding the proposed IEP. It is important that the district not implement the new IEP prior to receiving parent consent. If the parent does not sign the proposed IEP, it is the responsibility of the district to file due process against the parent. Prior to filing due process, the district should consult with the SELPA and have a SELPA representative review the status of the case and attempt to mediate the parent's concerns.

REMINDERS

- In the case of an initial referral, the district is not obligated to—and cannot—take any legal action if the parent refuses services.
- In the case of an IEP review (not initial), if the parent refuses all services, the district must file for due process.
- Parents can approve or revoke portions of IEPs.
- The district may have to file for due process if the parent approves part but not all of a proposed IEP.
- A proposed IEP may not be implemented without parent consent.
- A student’s services and placement cannot be changed without parent consent.
- An adult student who is not conserved can give consent to his/her IEP even if the parent disagrees.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) - DISSEMINATION

Legal Requirements

Prior to placing a student with a disability, the district must ensure that the student's teachers and/or service providers have access to the student's IEP, are knowledgeable of the content of the IEP, are informed of his or her specific responsibilities related to implementing a student's IEP, and are informed of the specific accommodations, modifications and supports that shall be provided for the student in accordance with the IEP. Service providers from other agencies who provide instruction or a related service to the student off the school site shall be provided a copy of the IEP. All IEPs shall be maintained in accordance with state and federal student record confidentiality laws.

Legal References

EC 56347, 34 CFR 300:323

Local Procedures

Once the district obtains signed parent consent for a proposed IEP, the case carrier should place the IEP in the student's file and inform the general teacher/s, the special education teacher/s, and other persons who provide special education and/or related services to the student of the following:

1. The location of the IEP;
2. The content of the IEP;
3. Each person's specific responsibilities related to implementing the student's IEP; and
4. The specific accommodations, modifications and supports that shall be provided for the student.

Teachers and other special education providers make or otherwise get a copy of the IEP. If a teacher or service provider is not in attendance at the meeting or, the district prefers to maintain the IEP in a confidential, secure location, a process must be in place to provide staff access to the IEP. The district must be able to document how it has complied with this requirement.

In order to meet the requirement of law, you may want to develop a form for this purpose. The case carrier should complete one form for each person that is responsible for implementing any portion of an IEP. If that person is an employee of the district, the case carrier should inform them how they can access the IEP or, attach the portion of the IEP that pertains to them or attach the complete IEP. In the case of special education providers from other public education agencies (including the county office or SELPA), whether they provide their service at the student's school site or a different site, the case carrier should provide them with a complete copy.

FAQs

Does every teacher or staff member need a copy of the student's IEP?

Yes, any person responsible for implementing a portion of a student's IEP should receive a copy of that IEP. This would include some classified staff members. For example, with a student on a behavior plan, playground monitors are often responsible for implementing portions of the behavior plan but would not otherwise be aware of the behavior plan. It is best practice to have teachers and other staff members sign acknowledgement of receipt of IEPs and commit to reading and implementing them.

REMINDERS

- Every teacher and service provider must be informed of their responsibility(s) with regard to the implementation of the IEP.
- Employees of other agencies that provide service at a location other than the school site must be given a copy of the complete IEP.
- Districts should have a method for documenting that teachers and service providers were informed of their responsibilities.
- IEPs are confidential documents and all copies should be kept in a secured location.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) - CONFIDENTIAL STUDENT INPUT TO IEP TEAM MEMBERS

Legal Requirements

As part of the participation of a student with a disability in the development of an IEP, as required by federal law, the student with a disability shall be allowed to provide confidential input to any representative of his/her IEP team.

Legal Reference

EC 56341.5

Local Procedures

Students have a right to consult with any member of the IEP team at any time regarding matters that affect the development of the student's IEP. The case carrier or designated special education administrator should inform students of this right and IEP team members should make themselves available whenever a student makes such a request. Unfortunately, the statute provides no guidance for IEP team members with regard to what they should do with the information provided by the student other than it must be kept confidential.

FAQs

What if the student tells me something that has serious safety implications? Am I still obligated to maintain confidentiality?

No, the California Constitution provides every student with a guarantee of a safe school.

Ultimately, each person will have to decide the appropriate course of action based on the facts of the individual case. One helpful question to ask oneself is, "What would a reasonable person do, given the same circumstances?" or "Am I legally mandated to report this as a case of child abuse?" Information shared that threatens the safety of any student should be properly reported to a school administrator or other appropriate person.

REMINDER

- Every student with a disability has the right to confer confidentially with any member of the IEP team.

SECTION III

OTHER LEGAL REQUIREMENTS & SPECIAL EDUCATION PROCEDURES

NOTICE OF PROCEDURAL SAFEGUARDS

Legal Requirements

In accordance with § 1415(d)(1)(A) of Title 20 of the United States Code, and § 300.504(a) of Title 34 of the Code of Federal Regulations, parents shall be given a copy of their rights and Procedural Safeguards, also known as Parent Rights, one time a school year. Parents should also give given a copy of the Procedural Safeguards:

1. Upon initial referral or parental request for assessment.
2. Upon receipt of the first state complaint under § 56500.2 in a school year.
3. Upon receipt of the first due process hearing request under § 56502 in a school year.
4. When a decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct in accordance with § 300.530(h) of Title 34 of the Code of Federal Regulations.
5. Upon request by a parent.

A district may place a current copy of the Procedural Safeguards notice on its internet web site, if such web site exists.

A copy of the notice of Parent's or Guardians' Rights shall be attached to any assessment plan. A written explanation of all the Procedural Safeguards under the Federal prior written notice (PWN) (IDEA) and the Rights and Procedures contained in Chapter 5 (commencing with EC § 56500) shall be included in the notice of a Parents' or Guardians' Rights, including information on the procedures for requesting an informal meeting or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate.

The copy of the notice of Procedural Safeguards shall include the right to electronically record the proceedings of IEP meetings as specified in EC § 56341.

Legal References

EC 56301; EC 56321; EC 56321.5, 34 CFR 300:504

Local Procedures

Districts will provide parents a copy of procedural safeguards at the following times:

1. Upon initial referral for a special education evaluation. The copy of procedural safeguards must be attached to the proposed assessment plan presented to the parents.
2. One time per year. Each district must decide how and when this will be done. The district might send this notice out with the notice of all of the other rights that are sent to all parents at the beginning of each school year (Annual Parent Notification) OR at the annual review IEP meeting. Many districts choose to give a copy of the Procedural Safeguards prior to every IEP meeting, which ensures that parents receive it at least annually.
3. Whenever the district conducts a reevaluation, the copy of procedural safeguards must be attached to the proposed assessment plan presented to the parents.

4. The first time the district receives notice that the parent has filed a complaint with the California Department of Education.
5. The first time the district receives notice that the parent has requested a due process hearing.
6. When the district decides to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct. The key word here is “decides”. In other words, at the time the school administrator actually makes the decision to either suspend a student for a period of time that constitutes a change in placement (the 11th day of suspension in a single school year) or expel a student, the administrator must send the parents a copy of their procedural safeguards. For specific information on suspension/expulsion and what constitutes a change of placement, see the section of this manual titled Discipline.
7. Whenever the parent requests a copy.

Districts are encouraged to either put a copy of the Procedural Safeguards or a link to the SELPA web site on the district web site.

Local Forms

Districts must use the Procedural Safeguards developed by the SELPA. The Procedural Safeguards are available on the SELPA web site. APPENDIX B

REMINDERS

The district has to give parents a copy of procedural safeguards:

- Once a year – the district can decide when and how.
- With every assessment plan.
- The first time the parent files a complaint or due process.
- Whenever the district decides to remove a student for disciplinary reasons and the removal constitutes a change in placement.
- Whenever parents ask for a copy

BEHAVIOR INTERVENTION PLAN (BIP) POLICY AND EMERGENCY INTERVENTIONS

Definition

Under state and federal law, districts are required to provide student with disabilities appropriate behavioral interventions and supports that are necessary to ensure they have meaningful access to their education.

Legal Requirements

The U.S. Department of Education, Office of Special Education and Rehabilitative Services, has outlined the following requirements with regard to the use of behavioral supports for students on IEPs:

1. IDEA requires IEP teams to consider the use of behavioral interventions and supports for student with disabilities whose behavior interferes with their learning or the learning of others.
2. When a student displays inappropriate behavior, such as violating a code of student conduct or disrupting the classroom, this may indicate that behavioral supports should be included in the student's IEP; this is especially true when the student displays inappropriate behavior on a regular basis or when the behavioral incidents result in suspensions or other disciplinary measures that exclude the student from instruction.
3. If a student displays inappropriate behavior despite having an IEP that includes behavioral supports, this may indicate that the behavioral supports in the IEP are not being appropriately implemented, or the behavioral supports in the IEP are not appropriate for the student. In these situations, the IEP team would need to meet to discuss amending the current IEP to ensure that the interventions and supports in the IEP can be implemented, or to revise the behavioral interventions and supports that are currently in place.
4. IDEA requires that needed behavioral supports in the IEP, whether provided as special education, related services, or supplementary aids and services, be based on peer-reviewed research to the extent possible. The supports chosen should be individualized to the student's needs. Some examples of supports that schools may use include instruction on, and reinforcement of, school expectations for behavior, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, social skills instruction, meetings with a behavioral coach, or other approaches.
5. In addition to behavioral supports for student with disabilities, it may also be necessary, and consistent with IDEA requirements, to provide supports for school personnel and training on the use of behavioral interventions and supports in order to appropriately address the behavioral needs of a particular student.
6. While providing individualized behavioral supports to students with disabilities who need them through the IEP process is required as part of IDEA, research has shown that these supports are typically most effective when they are delivered within a school-wide evidence-based multi-tiered behavioral framework that provides all student with clear expectations, targeted intervention for small groups who do not respond to the school-wide supports, and individualized supports for those student who need the most intensive behavioral services.
7. It is important for schools and agencies to keep in mind that, in general, placement teams may not place a student with a disability in special classes, separate schooling, or other restrictive settings outside of the general educational environment solely due to the student's behavior if the student's behavior can be effectively addressed in the general education setting with the provision of behavioral supports. The failure to make behavioral supports available throughout a continuum of placements, including in a general education setting, could result in an

inappropriately restrictive placement and may violate IDEA's LRE requirements. Doing so may constitute failure to provide the student with access to the LRE.

8. Schools should exercise caution in using disciplinary measures that remove a student from his or her current placement, such as suspension. Research has shown that exclusionary measures, in general, are not only ineffective at reducing or eliminating the reoccurrence of the misbehavior but may even be harmful to the student, possibly leading to lower academic performance, disengagement from school, and risk for drop out.
9. Parents have the right to request an IEP team meeting at any time, and public schools generally must grant a reasonable request from a parent for an IEP team meeting.
10. Parents may want to request an IEP team meeting following disciplinary removal or changes in the student's behavior that impede the student's learning or that of others, as these likely indicate that the IEP may not be properly addressing the student's behavioral needs or is not being properly implemented.

EC § 56521.2 also requires districts to employ behavior supports for students whose behavior impedes the learning of himself or others. Additionally, that section prohibits the use of: (1) any intervention 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; (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; and (8) an intervention that deprives the individual of one or more of his or her senses.

The California Education Code requires the following with regard to emergency interventions:

1. Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student with a disability, 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.
2. Emergency interventions shall not be used as a substitute for the systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior.
3. 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.
4. Emergency interventions shall not include:
 - a. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
 - b. Employment of a device, 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.
 - c. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

5. To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, 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 student with a disability and sent to the SELPA. The behavioral emergency report shall include all of the following:
 - a. The name and age of the student with a disability.
 - b. The setting and location of the incident.
 - c. The name of the staff or other persons involved.
 - d. A description of the incident and the emergency intervention used, and whether the student with a disability is currently engaged in any systematic BIP.
 - e. Details of any injuries sustained by the student with a disability, or others, including staff, as a result of the incident.
 - i. All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.
 - ii. If a behavioral emergency report is written regarding a student with a disability who does not have a BIP, the designated responsible administrator shall, within two days, schedule an IEP (IEP) team meeting to review the emergency report, to determine the necessity for a FBA, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the FBA, not developing an interim plan, or both.
 - iii. If a behavioral emergency report is written regarding a student with a disability who has a BIP, 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 BIP.

Legal References

EC 56521.1, 56521.2

Timelines

If an emergency intervention was used, or if serious property damage occurred, the district must notify the student's parent, guardian, and residential care provider within one school day. In those instances, the school must immediately complete a behavior emergency report. The behavioral emergency report should be immediately forwarded to the designated responsible administrator and the SELPA. If the student for whom the behavioral emergency report was written does not have a BIP, the district must schedule an IEP meeting to review the emergency report and determine the necessity for a FBA and interim plan within two days. If the student has a BIP and the incident was a previously unseen serious behavior or the previously designed intervention was ineffective, the district must refer the incident to the IEP team to determine if the BIP should be modified.

Local Procedures

An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to a student's BIP.

BIPs shall be used to substitute acceptable behavior for specified maladaptive behaviors, be based on a FBA, if necessary, and be used in a systematic manner.

The following behavioral interventions are prohibited from use under any circumstances:

1. Interventions designed to, or likely to, cause pain or trauma;
 - a. Locked seclusion;
 - b. Devices, materials, or objects that simultaneously immobilize all four extremities;
 - c. Release of noxious, toxic or unpleasant sprays in proximity to the student's face;
 - d. Denial of sleep, food, water, shelter, bedding, physical comfort, or bathroom facilities;
 - e. Use of verbal abuse, ridicule, humiliation;
 - f. Denial of adequate supervision;
 - g. Deprivation of his or her senses.

Functional Behavior Assessment (FBA)

1. A FBA shall gather information by direct observation, interviews and record reviews. The FBA shall include:
 - a. A systematic observation of the occurrence of the targeted behavior across all school settings;
 - b. A systematic observation and analysis of the antecedent events;
 - c. A systematic observation and analysis of the consequences of the behavior to determine the function of the behavior;
 - d. An ecological analysis of the environment in which the behavior occurs;
 - e. A review of the health and medical records;
 - f. A review of the history of the behavior; and
 - g. A determination of possible reinforcers.

Functional Behavior Assessment Report

1. A FBA report shall include the following:
 - a. A description of the nature and severity of the targeted behaviors in objective and measurable terms;
 - b. A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior;
 - c. A description of the hypothesized function of the targeted behavior;
 - d. A description of the rate of alternative behaviors including the antecedent and consequences that maintain the alternative behaviors;
 - e. Recommendations for consideration by the IEP team which may include a proposed BIP.

Positive programming for behavioral intervention may include the following:

1. Altering the antecedent events to prevent the occurrence of the behavior;
2. Teaching alternative replacement behaviors that serve the same function as the targeted behavior;
3. Teaching adaptive behaviors to prevent inappropriate behaviors;
4. Manipulating the consequences in order to have the alternative behaviors produce the desired outcome;

Evaluation of the effectiveness of the plan shall be determined by:

1. Comparison of baseline measure of frequency, duration, and intensity of targeted behavior and of measures of frequency, duration and intensity of the targeted behavior after utilizing the plan;
2. Documentation of implementation of the plan;
3. Documentation of skill acquisition of the functionally equivalent replacement behavior.

The effectiveness of the plan shall be reviewed by the teacher, the case manager, parent, and others as appropriate at scheduled intervals determined by the IEP team.

Modifications to the behavior plan may be necessary as a result of outcome data. The teacher and case manager shall conduct additional FBAs and, based on the outcomes, shall propose changes to the BIP.

The IEP team may develop the behavior plan to include provisions for altering specified procedures without the necessity for reconvening the IEP team.

Emergency Interventions

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

Emergency interventions shall not substitute for BIPs.

No emergency intervention shall be employed for longer than is necessary to contain the behavior. If the situation requires prolonged use of an emergency intervention, or the safety of both staff and students cannot be effectively maintained, staff shall seek the assistance of the school site administrator or law enforcement agency as appropriate.

Emergency interventions may not include:

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.

Emergency interventions may include:

1. SELPA approved physical intervention containment strategies by a trained individual;
2. Intervention by the police;
3. Intervention by Humboldt or Del Norte County Behavioral Health;
4. Physical intervention containment strategies by staff on hand only sufficient to prevent harm to self or others in the absence of other alternatives noted;
5. Removal from classroom or school by staff or parent as may be appropriate to protect student, other students, and staff.

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent or care provider shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs.

A Behavioral Emergency Report shall be completed when an emergency intervention is used and shall be maintained in the student's file. The report shall include:

1. The name and age of the student;
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;

5. Whether there is a current BIP for the student;
6. Description of any injuries sustained by the student, other students, the staff or others.

All Behavioral Emergency Reports shall be immediately forwarded to and reviewed by an administrator and the SELPA. If the student does not have a current BIP, the administrator shall schedule, within two days, an IEP meeting to review the emergency report, to determine the need for a FBA, and to determine the necessity for an interim BIP. In the case of the student who has a BIP, if the emergency involved a previously unseen serious behavior or where the behavior plan is not effective, the administrator will initiate an IEP meeting to review the current plan and the need for modification of the student's behavior plan.

Districts within the SELPA shall, by June 30th of each school year, send the total number of Behavioral Emergency Reports completed for the current school year to the SELPA director. The SELPA will report annually to the California Department of Education and Advisory Commission on Special Education the number of Emergency reports completed.

REMINDERS

- When the IEP team determines that the student's behavior has risen to the level where additional supports are needed beyond those provided by general classroom teacher interventions, it is likely that an FBA should be conducted and an appropriate staff member must be on the IEP team to coordinate the FBA and related BIP.
- Staff needs to be aware of behavior interventions that are not permitted under any circumstance.

GRADING GUIDELINES

Legal Requirements

Neither the IDEA, Section 504, nor the ADA contain specific provisions addressing report cards or transcripts. However, the U.S. Department of Education, Office for Civil Rights (“OCR”), has given guidance on report cards and transcripts for students with disabilities by which schools should abide. OCR does not have jurisdiction over the IDEA, so any concerns about grading or transcripts typically would raise Section 504 and/or ADA discrimination concerns, not special education concerns.

Legal References

United States Department of Education, Office for Civil Rights (July 2006). Letter regarding report cards and transcripts of student with disabilities; United States Department of Education, Office for Civil Rights (September 1996). Letter to Robert Runkel regarding criteria for grading schemes of students with disabilities; United States Department of Education, Office for Civil Rights (October 2008), Letter to the Field and Questions and Answers on Report Cards and Transcripts for Students with Disabilities Attending Public Elementary and Secondary Schools.

Local Procedures

1. Report cards or transcripts can reflect courses that utilized different course content using a modified or alternate education curriculum.
 - a. If modifications have been made to the course curriculum, the student’s grade should be reflective of mastery of the modified curriculum, not of the core curriculum.
 - b. All modifications to programming, instruction, and grading must be documented in the student’s IEP and be directly related to the student’s disability.
 - c. This type of designation or coding should also be available for any general education students who participate in a class with modified or alternate education curriculum.
2. A school should notify the student and/or parent prior to releasing a transcript with any notations of modified grades/curriculum if the transcript contains such notations.
3. Grades earned in special education or general education classes with the support of special education services must be included in the district-wide grade point average standings that lead to a ranking of students by GPA for honor roll and college scholarship purposes.
4. Transcripts and/or grades may not indicate that a student received accommodations in a general education classroom.
5. Transcripts may not indicate that a student has been enrolled in a special education program.
 - a. OCR has found that a transcript can designate a class by concept or content that implies disability status, such as “Independent Learning Center.”
 - b. A report cards can indicate that a student is receiving special education or related services because the purpose of a report card is to indicate progress and/or achievement. A report card can refer to an IEP and/or Section 504 plan in order to report on progress on goals. Any mention of the student’s IEP and/or Section 504 plan would need to be related to progress and/or achievement, and not just for mere “status” reasons.
6. FERPA protects, among other things, disability status, reports cards, and transcripts.
7. Students with disabilities can be given pass/fail grades, so long as participation in this grading system is voluntary and available to all students.
8. Grades cannot be modified on the basis of the student’s special education status. This means, for example, that a teacher cannot exempt a student with a disability from an assignment in order to raise his/her grade unless that accommodation is in the student’s IEP.

PROMOTION AND RETENTION

Legal Requirements

State law requires every district to have a written student promotion and retention policy that has been approved by the district's governing board and is consistent with EC § 48070.5(b).

Legal Reference

EC § 48070.5

Timelines

Specified in local board policy.

Local Procedures

The local board policy regarding promotion and retention applies equally to students with disabilities. Promotion and retention can be discussed by the IEP team; however, most board policies require final decisions regarding promotion and retention to be made via a separate process. If this issue arises, the student's case carrier should consult the administrator and the local board policy.

CHARTER SCHOOLS

Definition

Charter schools are schools established and maintained by teachers, parents, students, and community members that operate independently from the existing district structuring in order to obtain goals as described in EC § 47601.

Legal Requirements

Students with a disability attending charter schools pursuant to Part 26.8 (commencing with EC § 47600) shall be served in the same manner as students with a disability are served in other public schools.

It is the intent of the Legislature that local plans for SELPAs, adopted pursuant to Chapter 2.5 (commencing with § 56195) and Chapter 3 (commencing with § 56205), shall provide for federal funds available under Part B of the federal prior written notice (PWN) (20 U.S.C. § 1400 et seq.) to students with a disability enrolled in charter schools.

Rights of student with disabilities

Student with disabilities who attend public charter schools and their parents retain all rights under federal and state law.

Charter schools that are public schools of the district (“dependent charter schools”) are subject to the following requirements:

1. In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the district, the district must:
 - a. Serve student with disabilities attending those charter schools in the same manner as the district serves student with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the district has a policy or practice of providing such services on the site to its other public schools; and
 - b. Provide funds under Part B of the Act to those charter schools:
2. On the same basis as the district provides funds to the district’s other public schools including proportional distribution based on relative enrollment of student with disabilities; and
3. At the same time as the district distributes other Federal funds to the district’s other public schools, consistent with the State’s charter school law. If the public charter school is a school of a district that receives funding under § 300.705 and includes other public schools:
 - a. The district is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity.

If the public charter school is a district, consistent with § 300.28, that receives funding under § 300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity.

Legal References

EC 56145; EC 56146, 34 CFR 300.209

Local Procedures

The following information applies to Charter Schools chartered by a participating district of the Humboldt – Del Norte Special Education Local Plan Area (SELPA).

Enrollment

Students with disabilities have the same rights as students without disabilities to attend Charter Schools. Charter Schools shall process enrollment applications for students with disabilities in the same manner as students without disabilities.

Legal Compliance

Charter schools must comply with all federal laws and regulations pertaining to the education of students with disabilities. In addition, as a member of the Humboldt - Del Norte SELPA, Charter Schools must abide by all special education related policies, procedures and agreements developed by the Humboldt - Del Norte SELPA.

District of Residence (DOR)

For special education purposes, the District of Residence (DOR) for all students with a disability enrolled in a charter school is the district or county office that authorized the charter. In other words, if a student enrolls in a charter school chartered by a district other than the district where the student resides, the student becomes the responsibility of the chartering district even though he/she lives in the attendance area of another district. The district must provide services to students with disabilities enrolled in charter schools in the same manner and to the same extent that it provides services to students with disabilities enrolled in other schools within the district including providing services on the school site. If a student enrolled in the charter school requires a program that is not available at the charter school, the charter school is obligated to provide the program to the student through contract with another entity, just as the student's DOR would be required to do. A charter school may not disenroll a student because the student requires more supports, additional services, and/or a different placement.

Unless a charter school is accepted as a district by the SELPA, it shall be considered a school within the chartering district. Staff shall enter the chartering district as DOR when writing IEPs. For students attending district charters, please refer to your administrator for proper DOR designation on the student's IEP.

FAQs

Can a charter school limit the enrollment of students with disabilities based on the services the charter school has available?

No, a charter school must apply the same enrollment standards to students with disabilities that it applies to students without disabilities. A charter school is a public school and must accept any student for which it has enrollment capacity. A charter school may not look at an IEP prior to enrollment and deny the student on the basis of any item in the IEP.

Can a charter school limit the services that it provides to students with disabilities?

No, a charter school must provide whatever services (including placement) the IEP team determines are necessary for a student to receive a FAPE. A charter school cannot tell a student or parent that it does not offer any service necessary for FAPE.

Can a charter school have a one-size-fits-all special education program?

No, a charter school must individualize each IEP for each eligible student with a disability. A charter school is not allowed to provide only a certain set of services for a student with a disability.

REMINDERS

- When it comes to serving students with disabilities, a charter school is a public school just like any other public school.
- Charter schools must use the same enrollment standards for students with disabilities as it does for students without disabilities.
- Charter schools are subject to all of the policies, procedures and agreements of the local SELPA.

DISCIPLINE

Definition

Suspension

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following:

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of the day prescribed by the governing board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or the principal's designee as provided in § 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion

Expulsion means a removal of a student from (1) the immediate supervision and control, or (2) the general supervision of school personnel, as those terms are used in § 46300.

Removal

"Removal," as used in federal regulations such as those related to manifestation determination (MD) meetings, is a generic term used to describe any removal of a student for disciplinary purposes from ongoing instruction for any length of time.

Change of Placement

Removal of a student for disciplinary purposes is considered a change of placement if the removal is for more than ten consecutive school days or the student has been subjected to a series of removals that constitute a pattern:

1. Because the series of removals total more than ten cumulative school days in a school year;
2. Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
3. Because of factors such as the length of each removal, the total amount of time removed and the proximity of the removals to one another.

Legal Requirements

State

A student shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the student is enrolled determines that the student has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.*
(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

- (c) *Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with § 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.*
- (d) *Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.*
- (e) *Committed or attempted to commit robbery or extortion.*
- (f) *Caused or attempted to cause damage to school property or private property.*
- (g) *Stole or attempted to steal school property or private property.*
- (h) *Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of his or her own prescription products.*
- (i) *Committed an obscene act or engaged in habitual profanity or vulgarity.*
- (j) *Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.*
- (k) (1) *Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.*
(2) *Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.*
- (l) *Knowingly received stolen school property or private property.*
- (m) *Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.*
- (n) *Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.*
- (o) *Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.*

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings: (1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following: (A) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property. (B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) “Electronic act” means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following: (i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site, including, but not limited to: (I) Posting to or creating a burn page. “Burn page” means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1). (II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile. (iii) An act of cyber sexual bullying.

(I) For purposes of this clause, “cyber sexual bullying” means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act. (II) For purposes of this clause, “cyber sexual bullying” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet. (3) “Reasonable pupil” means a pupil, including, but not limited to, an exceptional

needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

In addition to the reasons specified in § 48900, a student may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has committed sexual harassment as defined in § 212.5 of the EC. For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the student's academic performance or to create an intimidating, hostile or offensive educational environment. This section shall not apply to students enrolled in kindergarten and grades 1 to 3, inclusive.

A student in grades 4 to 12, inclusive, may also be suspended from school or recommended for expulsion if the superintendent or principal of the school in which the student is enrolled determines that the student has caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in § 233 of the EC.

Additionally, a student enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has intentionally engaged in harassment, threats or intimidation, directed against district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment.

Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a student, including a student with a disability, as defined in § 56026 of the EC, may be suspended for any of the reasons enumerated in § 48900 upon a first offense if the principal or superintendent of schools determines that the student violated subdivision (a), (b), (c), (d), or (e) of § 48900 or that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

A student with a disability, as defined in § 56026, may be suspended or expelled from school in accordance with § 1415(k) of Title 20 of the United States Code, the discipline provisions contained in §§ 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

A free appropriate public education (FAPE) for students with a disability suspended or expelled from school shall be in accordance with § 1412(a) (1) of Title 20 of the United States Code and § 300.530(d) of Title 34 of the Code of Federal Regulations.

Federal:

Determination of Setting

The student's IEP team determines the interim alternative educational setting for services under § 300.530(c), (d) (5), and (g).

Appeal

General. The parent of a child with a disability who disagrees with any decision regarding placement under §§ 300.530 and 300.531 or the manifestation determination under § 300.530(e) or an district that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).

Placement During Appeals

When an appeal under § 300.532 has been made by either the parent or the district, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in § 300.530(c) or (g), whichever occurs first, unless the parent and the California Department of Education (State Educational Agency) or the district agree otherwise.

Protections for Student Not Determined Eligible for Special Education and Related Services Excerpt

a. General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

b. Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred: 1. The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services; 1. The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or 2. The teacher of the child or other personnel of the district expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

c. Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if: 1. The parent of the child: i. has not allowed an evaluation of the child pursuant to §§ 300.300 through 300.311; or ii. Has refused services under this part; or 2. The child has been evaluated in accordance with §§ 300.300 through 300.311 and determined to not be a child with a disability under this part.

d. Conditions that apply if no basis of knowledge. 1. If a public agency does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph (d) (2) of this section. 2. i. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under § 300.530, the evaluation must be conducted in an expedited manner. ii. Until the evaluation is completed, the child remains in the educational placement determined by school authorities which can include suspension or expulsion without educational services. iii. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must provide special education and related services in accordance with this part, including the requirements of §§ 300.530 through 300.536 and section 612(a)(1)(A) of the Act.

Referral to and Action by Law Enforcement

1. Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability.
2. Transmittal of records.
 - a. An agency reporting a crime committed by a student with a disability must ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.
 - b. An agency reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. (FERPA) (Authority: 20 U.S.C. 1415(k)(6))

Change of Placement

1. For purposes of removals of a student with a disability from the student's current educational placement under §§ 300.530 through 300.535, a change of placement occurs if:
 - a. The removal is for more than ten consecutive school days; or
 - b. The student has been subjected to a series of removals that constitute a pattern:
 - i. Because the series of removals total more than ten school days in a school year;
 - ii. Because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - iii. Because of such additional factors as the length of each removal, the total amount of time the student has been removed and the proximity of the removals to one another.
2. The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
3. This determination is subject to review through due process and judicial proceedings.

Legal References

EC 48900; EC 48900.2; EC 48900.3, EC 48900.4; EC 48900.5; EC 48915.5; EC 48925 34 CFR 300:530-537

Timelines

Manifestation Determination (MD)

An IEP meeting to conduct a manifestation determination (MD) must be held within ten school days of the decision to remove a student for disciplinary purposes if the removal constitutes a change in placement.

Local Procedures

As a general rule, students with a disability may be suspended in the same manner as students without a disability for the first ten days of suspension. After ten days of suspension, a student may be suspended up to ten additional days subject to specific limitations to be discussed later.

Students with a disability may also be expelled provided that the student continues to receive special education services pursuant to an IEP.

The procedures pertaining to suspension and expulsion for both identified students with a disability and students not yet identified as eligible for special education are explained in detail below.

Rights of Students Not Yet Eligible for Special Education

A student who has not been officially identified as a student with disabilities may assert the procedural safeguards granted to a student with a disability only if the district had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred. The decision as to whether the district had prior knowledge shall be made by the appropriate district special education administrator.

The district shall be deemed to have had knowledge that the student had a disability if before the behavior that precipitated the disciplinary action:

1. The parent/guardian expressed concern to supervisory or administrative personnel of the district or a teacher of the student, in writing, that the student is in need of special education or related services; or
2. The parent or guardian requested an evaluation of the student for special education eligibility; or
3. The teacher of the student or other district personnel expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

The district would be deemed to not have knowledge that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to not have knowledge if the district had conducted an evaluation and determined that the student was not an individual with a disability. If the district did not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities.

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the law requires that the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which may include suspension or expulsion without educational services. If the student is eventually found eligible for special education services, the district shall develop an IEP subject to the procedures for identified student with a disability described herein.

Suspension Procedures for Identified Student with Disability Needs

A district superintendent or designee may suspend a student with a disability for up to five consecutive school days for a single incident of misconduct and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement (see definition above) pursuant to federal regulations. If, for the purpose of adjustment, a student enrolls in or is transferred to another general school class or a continuation school or class, the total number of days of suspension shall not exceed 30 days.

The principal or designee should monitor the number of days, including portions of days that students with valid IEPs have been suspended during the school year. If a student misses even a portion of the school day due to disciplinary action, that entire day counts as a day of suspension.

Administrators should be cautious about sending students home as a disciplinary consequence with or without the consent of the parent. While the district administrator may not consider it a suspension at the time, legally it meets the definition of suspension and must be counted towards the student's total days of suspension. It is recommended that the district consider any days of suspension beyond ten cumulative to constitute a change of placement, which would require a manifestation determination (MD) meeting as described below.

Changing the placement of a student with a disability from a general school site to a community day school requires an IEP team meeting and parental consent unless it is done as a result of post-expulsion placement or as an interim alternative educational setting.

Note: As with general education students, suspension should only be imposed when other means of correction fail to bring about proper conduct. In addition, because of the limited number of days that a student with a disability can be suspended, the number of legal requirements involved and the fact that suspension is not generally an effective deterrent for students with a disability, administrators are encouraged to use suspension sparingly and develop other more proactive means of discipline.

Removals for 1 to 10 Cumulative Days

A student with a disability may be suspended in the same manner as a student with no disability for the first ten cumulative days of suspension. They can be removed from school and the school is not responsible for providing any special education services during the period of the removal. However, it is recommended that the IEP team meet to consider whether the student needs additional services and/or supports when the student is nearing ten days of suspension as the days of suspension are likely interfering with the student's ability to make progress on his/her IEP goals.

Removals in Excess of Ten Cumulative Days

Once the decision is made to suspend a student for the 11th day, the administrator must determine whether the removal constitutes a change of placement, as defined above. Accordingly, it is recommended that districts consider all suspensions of 11 or more cumulative days to be a change in placement.

If the removal does constitute a change of placement, the district can still suspend the student but the process becomes more complicated. Additionally, the federal timelines for a manifestation determination (MD) meeting will likely not line up with the state timelines regarding suspensions. The district will have to conduct a manifestation determination (MD) but by the time this is accomplished the suspension will more than likely have already been implemented. This is because the manifestation determination (MD) process is designed for disciplinary cases where expulsion is at issue, and the law assumes that IEP teams are including behavioral interventions for students with disabilities who have repeated suspensions.

Manifestation Determination Procedures

On the date on which the decision is made to make a removal for disciplinary reasons that constitutes a change in placement, the district must notify the parents of that decision and provide the parents with a Notice of Procedural Safeguards. That means that the administrator should be providing parents with a copy of Procedural Safeguards when he/she suspends a student for an 11th cumulative day or on the day the decision to expel the student is made. Within ten school days of the decision to make the change in placement, the district, parent and relevant members of the IEP team (as determined by the district and

the parent) shall meet and review all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parent to determine:

1. If the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
2. If the conduct in question was the direct result of the district's failure to implement the IEP.

If either of the previous conditions is found to be true, the behavior shall be determined to be a manifestation of the student's disability. If neither condition is met, the behavior is not a manifestation of the student's disability.

It is important to note that while the manifestation determination (MD) is made in an IEP meeting, it does not require parent agreement and written consent in order to implement the findings of the IEP team. If the IEP team determines that the behavior was not a manifestation of the student's disability and the parent disagrees, the parent must file due process, otherwise the district may proceed with disciplinary action.

Behavior IS NOT a Manifestation of the Disability

If the IEP team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities except that the student shall continue to receive services to the extent necessary to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. However, the decision regarding the extent and location of services during the removal will be determined by the IEP team. The IEP team will also review the student's behavior plan, or, in the case where there is no behavior plan, consider the need for developing one and/or the need for a FBA.

Behavior IS a Manifestation of the Disability

When the behavior is found to be a manifestation of the student's disability or a direct result of the failure to implement the IEP, the IEP team must:

1. Either conduct a FBA and develop a BIP, or when a BIP has already been developed, review the current BIP and modify it as necessary; and
2. Return the student to the placement from which the student was removed, unless the parent and district agree to a change of placement.

If the behavior is a manifestation of the student's disability or a direct result of the failure to implement the IEP, the district is not required to expunge the suspension or expulsion recommendation from the student's record. The district is only required to take actions 1 and 2 above.

Exceptions to the Manifestation Determination Rule

School staff may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, when the student commits one of the following acts:

1. Carries or possesses a weapon, as defined in 18 USC 930 (g) (2), to or at school, on school premises or to or at a school function under the jurisdiction of the district.
2. Knowingly possesses or uses illegal drugs, as defined in 34 CFR 300.530(i) (2), while at school, on school premises or at a school function under the jurisdiction of the district.
3. Sells or solicits the sale of a controlled substance as defined in 21 USC 812(c), while at school, on school premises or at a school function under the jurisdiction of the district.

4. Has inflicted serious bodily injury upon another person as defined in 18 USC § 1365(h)(3), while at school, on school premises, or at a school function under the jurisdiction of the district.

Serious bodily injury means:

- a. Substantial risk of death.
- b. Extreme physical pain.
- c. Protracted/obvious disfigurement.
- d. Protracted loss/impairment of function of a bodily member, organ or mental faculty.

The interim alternative educational setting shall be determined by the IEP team. For most districts there are few options to use as an IAES. The most common placements tend to be community schools and, in some case, home instruction. Prior to assigning a student to home instruction, districts should check with the SELPA and/or their own legal counsel for recent rulings on this placement option.

Expulsion Procedures for Identified Student with Disability Needs

Expulsion is always a change in placement. Prior to expelling a student with disabilities, the district must conduct a manifestation determination (MD). If the IEP team determines that the behavior is a manifestation of the student's disability, the district must terminate expulsion proceeding and implement the manifestation determination (MD) procedures outlined above under suspension. This is true even if the behavior is one that requires mandatory expulsion under state or federal laws. If the IEP team determines that the behavior in question is not a manifestation of the student's disability, the district governing board may continue with expulsion proceedings. In the event of an expulsion, the governing board will determine the placement and all other aspects of the expulsion for a student with a disability in the same manner that it does for students who are not disabled. Whenever a student with a disability is expelled, the IEP team will meet to determine the extent of services necessary to enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP. If the parent does not agree with the decision of the IEP team, the parent may file for a due process hearing as described in the Due Process Appeals section of this policy. However, the district may proceed with disciplinary action.

Services Post-Expulsion

Any student with a disability who is expelled shall continue to receive services during the term of the expulsion to the extent necessary to enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP. The type and extent of services will be determined by the IEP team.

Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened and a new IEP will be developed to address the student's needs in the new environment.

Suspension of Expulsion

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students except that an IEP meeting shall be held to review and amend the existing IEP as appropriate. If a student is placed on a suspended expulsion and engages in another act that would cause his or her expulsion to be reinstated, the IEP team must hold a second manifestation determination (MD) meeting on the new conduct prior to reinstating the expulsion.

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, including any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245 (assault with a deadly weapon or firearm).

Within one school day after a suspension or expulsion of a student with disabilities, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student which may violate EC 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind.

The principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student which involves the possession or sale of controlled substances or a violation of Penal Code 626.9 or 626.10.

Transmittal of Records

A district reporting a crime committed by a student with a disability must ensure that copies of the student's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the district reports the crime. These records may only be transmitted to the appropriate authorities as permitted by the Family Educational Rights and Privacy Act (FERPA) and corresponding state law. In the absence of a subpoena, the reporting district will request written parental consent for the exchange of information prior to transmitting any special education or disciplinary records. The district should consult legal counsel if there is a question about whether or not authorities have a right to view and/or receive student records.

Due Process Appeals

If the parent/guardian disagrees with the determination that the student's behavior was not a manifestation of his/her disability or with any decision regarding placement in an interim alternative educational setting, the parent/guardian has a right to appeal the decision to a hearing officer. If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational placement or the manifestation determination (MD), the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the 45-school day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. If school personnel maintain that it is dangerous for the student to continue to be placed in the current placement (placement prior to removal to the interim alternative education setting) while the due process proceedings are pending, the Superintendent or designee may request an expedited due process hearing.

Local Forms

Suspensions and/or expulsions should be documented using district general education forms. A Manifestation Determination Form is available on SEIS for IEP teams to use.

FAQs

Is it considered a suspension if the parent agrees to take their student home when he/she has behavior problems?

Yes, if this is not a consented-to IEP accommodation, then the day should be counted as a suspension.

How many times do you have to do a manifestation determination (MD)?

Once you pass ten cumulative days of suspension, the IEP team will have to meet and conduct a MD for every subsequent suspension (if the removal constitutes a change of placement).

What happens if the parent disagrees with the district's determination about change of placement?

If the district and parent are unable to resolve the issue, the parent can file for a due process hearing.

Can the teacher suspend a student?

Legally yes, generally speaking, the teacher can suspend for the remainder of the day and the following day. Teachers should consult with their site principal regarding policies and procedures related to teacher suspensions. This suspension counts towards a student's cumulative days of suspension and should be recorded as such.

Does a partial day suspension count as a day of suspension?

Yes, the suspension counts towards as a student's cumulative days of suspension and should be recorded as such. This would also apply if a teacher suspends a student for a single period only.

REMINDERS

- Students with a disability may be suspended in the same manner as students with no disability needs for the first 10 days of suspension.
- A student may be suspended for a maximum of five consecutive days
- Suspension should always be a last resort, and behavioral interventions should be implemented for students with behavioral needs.
- Students with a disability can be suspended beyond ten days. In most cases, the IEP team will need to hold a manifestation determination meeting to do so.
- Administrators should carefully track the number of days, including partial days that a student with disability needs has been suspended.
- "Change of placement" is a crucial and tricky concept relative to suspension. It is safest to hold a manifestation determination meeting on the 11th cumulative day of suspension for all IEP students.
- Manifestation determination does not require parent consent.
- To exercise dissent, parents must file due process if they disagree with the manifestation determination.

INTERIM PLACEMENT PROCEDURES

Definition

Interim Placement refers to the process for providing special education services, up to 30 calendar days, to an identified student with a disability who transfers into a district from outside the SELPA. Interim Placements are also allowed, under certain conditions, for students who transition from an Elementary district to a High School district.

Legal Requirements

Transitions from an Elementary district to a High School district within the same SELPA

When a student with a disability is to enroll in a high school district from an elementary school district, the elementary school district shall invite the high school to the transition IEP meeting. The high school representative will specify the appropriate high school placement. If a high school representative does not participate in the IEP meeting prior to the transfer, the elementary school district shall notify the high school of each student and their respective special education needs. Upon the students' enrollment in the high school, the high school shall make an interim placement or immediately convene an IEP meeting to develop, adopt, and implement a new IEP.

Transfers within the SELPA

If a student transfers within the same academic year from one district to another within the same SELPA, the receiving district shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless they are unable to do so. For example, a student might have moved from a district where he/she was receiving the equivalent of special day class services and the new school only has a resource program. In this example, the school and parent may agree to remedy the problem by amending the IEP without holding an IEP meeting as described in the section on developing IEPs later in this manual. In other cases, it may be necessary for the district to hold an IEP meeting to develop adopt and implement a new IEP. Regardless of the situation, the district should resolve the matter immediately so that they are in compliance with the IEP.

Transfers within the same State

If a student with an IEP transfers within the same academic year into a district from a district not operating programs under the same local plan, the receiving district shall provide the student with a Free Appropriate Public Education. Services must be comparable to those described in the previously approved IEP, and be provided for a period not to exceed 30 calendar days. By the end of the 30 calendar days, the district must either adopt the previous IEP or develop, adopt, and implement a new IEP.

Transfers from another State

If a student with an IEP transfers within the same academic year from a district outside the State of California to a district within the State of California, the receiving district shall provide the student with a Free Appropriate Public Education. Services must be comparable to those described in the previously approved IEP and be provided until the district conducts an assessment, if determined necessary, and develops a new IEP.

In all the previous examples, the receiving school should take reasonable steps to promptly obtain student records, including IEPs and any other records relating to the provision of special education and related services in the previous school.

Students Residing in Residential Nonpublic Schools

If a student residing in a residential NPS transfers to a district in another SELPA (and the placement is not eligible for funding under EC § 56836.16), the district that contains the district that made the placement is responsible for funding the current placement for the remainder of the school year, including the extended school year.

If a student was placed in a residential NPS and the parent moves during the school year to a district in another local plan area, the district that placed the student will continue to pay for the NPS placement for the remainder of the school year, including the extended school year.

Legal References

EC § 56325, CCR Title 5 § 3024, CCR Title 2 § 60055, 34 CFR § 300.323

Timelines

With the exception of the 30-day limitation for transfers within the State of California, between SELPAs, the law is silent with regard to timelines for conducting an interim placement. It is assumed, however, based on the general guidelines affecting other special education timelines, that students should be provided services as soon as practicable and services should not be unduly delayed.

Local Procedures

Transfers within the Same State

Each school should designate a person, who is knowledgeable about special education, to be responsible for conducting interim placements. Upon enrollment, this person should interview the parent and obtain as much information as possible about the student. At a minimum, the person should obtain enough information to locate and obtain a copy of the current IEP. If the parent has a copy of the IEP, the IEP should be reviewed immediately to determine if an appropriate placement is available within the district.

If a comparable placement is available, or if the parents agree to a different placement for the interim period, arrangements for the placement should be made immediately. If the district determines that a placement is necessary in another district within the SELPA, the district should request that the parent allow the district time to make arrangements. It is less disruptive to the student to make the correct placement the first time rather than start the student in a questionable placement and have to move them shortly afterward. The district must not delay enrollment beyond the mutually agreed upon period.

If the parent does not have a copy of the IEP, the district may, as indicated above, request that the parent allow them time to contact the previous school, obtain a copy of the IEP and make arrangements for an appropriate placement. The district should not delay enrollment because it is waiting on a copy of a student's IEP unless the delay is mutually agreeable. It is advised to get such agreement in writing.

If the district can verify that the student has a current, approved IEP, but it appears that finding an appropriate placement is going to take more time, and/or the parent insists on an immediate placement, the district should, in consultation with the parent, identify an interim placement and make immediate arrangements for placement.

Once the interim placement and services are determined, the district must complete the SELPA Interim Placement form and obtain parent consent prior to placement and the initiation of services.

During the 30-day-interim-placement period the district should conduct informal classroom assessments, i.e., observations, curriculum-based assessments, etc., to determine the student's current levels of performance, instructional needs, and service needs, so that an appropriate IEP can be developed at the end of the 30 days. If the district recommends conducting a formal evaluation, it must develop an assessment plan, obtain parent consent and complete the evaluation within the 30-day interim placement period so as to be able to offer a complete IEP at the end of the 30-day period.

Transitions from an Elementary School District to a High School District within the same SELPA

Prior to transitioning a student from an elementary school district to a high school district, the elementary school district must schedule an IEP meeting and invite a representative from the high school district. The elementary school district may schedule this transition meeting to coincide with student's annual review or schedule them for a separate time. If the high school representative is unable to attend at the scheduled time, it is helpful for the elementary school district to reschedule to a mutually agreeable time. The high school representative is encouraged to attend the meeting and because they are most knowledgeable about programs available at the high school, they have the authority to make all necessary decisions about placement and services for when the student enrolls in the high school. If the high school representative does not participate in the IEP meeting, the district should conduct the IEP meeting but only develop an IEP to address the remainder of the student's time at the elementary school district. In other words, the dates for services on the IEP will terminate on the student's last day of attendance. The elementary school district representative must then notify the high school district of the names of those students who will transition to the high and their respective needs. This should be done in writing as soon as the district has completed the IEP meetings. Upon enrollment at the high school, the designated high school representative must complete the SELPA Interim Placement form for each new student and hold an IEP meeting within 30 days of their first day of attendance to develop and adopt a new IEP.

Transfers within the SELPA

When a student moves from one district to another within the SELPA, it is not considered an interim placement. Districts do not need to complete an interim placement form in these situations. The district must immediately implement the IEP as written. If the district is unable to implement an IEP as written, the district must immediately hold an IEP meeting to develop adopt and implement a new IEP as appropriate, or amend the current IEP without holding an IEP meeting through a prior written notice (PWN) to the parent and with the parent's consent.

Transfers from another State

In the case of out of state transfers, the procedures described above also apply with two exceptions. The SELPA recommends always conducting a re-evaluation because eligibility criteria and practices vary from state to state. And, because the district is conducting a reevaluation, the district is not limited to the same 30-day period. In this case, the timelines for evaluation apply, 60 days from receipt of consent to assess and develop the IEP. It is recommended that the IEP team meet within 30 calendar days of the transfer to review the interim IEP offer, regardless of whether consent has been provided to assess the student.

Students Residing in Residential Nonpublic Schools

It is rare that a student transfers into the Humboldt - Del Norte SELPA from another SELPA while residing in a residential non-public school (also known as a Residential Treatment Center ("RTC")). It is recommended that you contact the SELPA if this occurs in your district.

Typically, a student who is placed in an RTC transfers district and SELPAs because the student’s custodial parent changed or the parent moved from one county to another. Once the new DOR is made aware of the change, the district becomes responsible for the student programmatically, but usually not fiscally.

When this happens, the district must do all of the following:

1. Complete an interim placement form indicating the NPS as the program placement for 30 days, all current services, and the objective of implementing the current IEP as stated.
2. Contact the NPS/RTC to make sure that all progress reports are sent to them for their review.
3. Contact SELPA so they can begin monitoring the case.

The district should subsequently conduct all IEP reviews and visit the school to monitor the placement until the end of the extended school year, when they typically will assume full responsibility for the student. Depending on the awareness and cooperation of the placing district, it may be necessary at some point to contact them about their financial responsibility. If this becomes necessary, the district may contact the SELPA office.

Transfer within the HDN SELPA	Transfer from another CA SELPA	Transfer from another State
Continue, without delay, to provide “comparable” services to the existing approved IEP.	Provide FAPE with “Comparable” services from previously approved IEP for up to 30 days.	Provide FAPE with “Comparable” services from previously approved IEP
May agree to develop a new IEP.	After 30 days: <ul style="list-style-type: none"> • Adopt prior IEP or • Develop new IEP 	Prior IEP is implemented until a new IEP is developed.

Local Forms

The SELPA form titled “Interim 30-day Placement Form” transfers into Humboldt or Del Norte County must be completed for all interim placements.

1. Program Placement for 30 Days – specify the student’s primary placement for the next 30 calendar days and be specific: i.e., SAI services two periods per day, five days per week; specialized academic instruction five hours per day, five days per week in a special day class; etc
2. Location – specify the school where services will be provided.
3. Services to be Provided – specify all of the Direct Instruction Services (DIS)/related services that the student will receive, including frequency and duration as above, i.e., speech 15 minutes, two times per week. This is true for DIS services provided by other agencies such as Mental Health and California Children’s Services, unless the services are not provided by those agencies. If services are not available within the SELPA, they should be left off of the Interim Placement Form and the area(s) of need reevaluated during the interim placement period.
4. Objective – Indicate the main objective during the 30 days, i.e., determine current levels of performance, goals and objectives and service needs; conduct comprehensive reevaluation; re-evaluate eligibility and service needs; etc.

FAQs

Can the school secretary do the interim placement?

It is not advisable. The person arranging the interim placement, at a minimum, must know how to evaluate the contents of the IEP and what services are available within the district.

How do I do an interim placement for a student when the IEP indicates a NPS placement?

As there are no NPS placements in the Humboldt-Del Norte SELPA, it can be complicated to determine what a “comparable” placement is. The district will want to review the IEP, interview staff from the prior district, and interview staff from the NPS to determine the actual level of services the student was receiving. The district will then want to offer the placement that can most replicate the NPS placement in the district. The district should collect information during the 30-day interim period to be able to develop a new offer of FAPE that includes an appropriate and available placement.

Do I have to provide the exact same placement and services during the interim placement?

Not exactly, the law uses the term “comparable” services. Comparable is not legally defined, but the district should attempt to offer identical services to those offered in the prior district. Placement should likewise be as similar to the prior placement as possible.

REMINDERS

- When students with a disability move from one school to another during the school year, they must be provided special education services as per the IEP.
- The receiving school must begin providing service immediately, or with a minimum delay related to enrollment.
- Interim placements are not allowed when a student moves from one district to another within a SELPA. Best practice when a student transfers from within the SELPA but the IEP cannot be replicated is to draft and get consent for an IEP amendment that is valid for 30 days, and then hold a 30-day IEP meeting to make a full offer of FAPE.
- Interim placements must be completed, even for students living in a residential nonpublic school, when their formal district of residence changes from one SELPA to another SELPA.

NONPUBLIC SCHOOL/AGENCY (NPS/NPA) PLACEMENTS

Definition

Nonpublic, Nonsectarian School

Nonpublic, nonsectarian school means a private, nonsectarian school that enrolls students with disability needs pursuant to an IEP 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.

Nonpublic, Nonsectarian Agency

Nonpublic, nonsectarian agency means a private, nonsectarian establishment or individual that provides related services necessary for a student with a disability to benefit educationally from the student's educational program pursuant to an IEP and that is certified by the California Department of Education. 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.

Nonsectarian

Nonsectarian means a private, NPS or NPA that is not owned, operated, controlled by or formally affiliated with a religious group or sect, whatever might be the actual character of the education program or the primary purpose of the facility and whose articles of incorporation and/or by-laws stipulate that the assets of such NPA or corporation will not inure to the benefit of a religious group.

Legal Requirements

District (LEA) Requirements

Services provided by nonpublic, nonsectarian schools, as defined pursuant to § 56034, and nonpublic, nonsectarian agencies, as defined pursuant to § 56035, shall be made available. These services shall be provided pursuant to § 56366, and in accordance with § 300.146 of Title 34 of the Code of Federal Regulations, under contract with the district to provide the appropriate special educational facilities, special education or designated instruction and services required by a student with a disability if no appropriate public education program is available.

Students enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with § 41600) of Part 24 and § 42238. The district shall be eligible to receive allowances under Articles 3 (commencing with § 56836.165) and 4 (commencing with § 56836.20) of Chapter 7.2 for services that are provided to students with a disability pursuant to the contract.

Out of State Placement Requirements

Before contracting with a nonpublic, nonsectarian school or NPA outside of the state, the district shall document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

If a district places a student with a nonpublic, nonsectarian school or agency outside of this state, the student's IEP team shall submit a report to the Superintendent of the California Department of Education within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the district to locate an appropriate public school or nonpublic, nonsectarian school or NPA, or a combination thereof, within the state. The Superintendent shall submit a report to the board on all placements made outside of this state.

If a district decides to place a student with a nonpublic, nonsectarian school or NPA outside of the state, that district shall indicate the anticipated date for the return of the student to a public or nonpublic, nonsectarian school or NPA placement, or a combination thereof, located in the state, and shall document efforts during the previous placement year to return the student.

In addition to meeting the requirements of § 56366.1, a nonpublic, nonsectarian school or NPA that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to students under the federal prior written notice (PWN) (20 U.S.C. § 1400 et seq.).

Contracting Requirements

It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or NPA shall be maintained and continued as an alternative special education service available to a district and parents.

The master contract for nonpublic, nonsectarian school or NPA services shall be developed in accordance with the following provisions of EC § 56366.

The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased or contracted by a district for students enrolled in the nonpublic, nonsectarian school or NPA unless provided directly or subcontracted by that nonpublic, nonsectarian school or NPA.

A master contract for special education and related services provided by a nonpublic, nonsectarian school or NPA may not be authorized under this part, unless the school or NPA has been certified as meeting those standards relating to the required special education and specified related services and facilities for students with a disability. The certification shall result in the school or NPA receiving approval to educate students under this part for a period no longer than 18 months from the date of the initial approval.

Waiver Allowances

A district, nonpublic, nonsectarian school, or nonpublic, NPA may petition the Superintendent to waive one or more of the requirements under §§ 56365, 56366, 56366.3, and 56366.6. The petition shall state the reasons for the waiver request and shall include the following:

1. Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific student's IEP and the student's current placement.
2. The period of time that the waiver will be effective during any one school year.
3. Documentation and assurance that the waiver does not abrogate any right provided to students with a disability and their parents or guardians under state or federal law and does not hinder the compliance of a district with the federal prior written notice (PWN) (20 U.S.C. Sec. 1400 et

seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) and federal regulations relating to those acts.

No waiver shall be granted for reimbursement of those costs prohibited under Article 4 (commencing with § 56836.20) of Chapter 7.2 of Part 30 or for the certification requirements pursuant to § 56366.1 unless approved by the board pursuant to § 56101.

In submitting the annual report on waivers granted under § 56101 and this section to the board, the Superintendent shall specify information related to the provision of special education and related services to students with a disability through contracts with nonpublic, nonsectarian schools and agencies located in the state, nonpublic, nonsectarian school and NPA placements in facilities located out of state and the specific section waived pursuant to this section.

Licensed Children's Institution (LCI) Prohibition

A LCI at which students with a disability reside shall not require, as a condition of residential placement, that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or NPA owned, operated by, or associated with, a LCI. Those services may only be provided if the SELPA determines that appropriate public alternative educational programs are not available.

Integration into Public Schools

The California Department of Education shall implement a program to integrate students with a disability placed in nonpublic, nonsectarian schools into public schools, as appropriate. Under the program, a student placed in a nonpublic, nonsectarian school and each individual who has the right to make educational decisions for the student shall be informed of all his or her rights relating to the educational placement of the student. Existing dispute resolution procedures involving public school enrollment or attendance shall be explained to a student placed in a nonpublic, nonsectarian school in an age and developmentally appropriate manner. The Foster Child Ombudsman shall disseminate the information on education rights to every foster child residing in a LCI or foster family home.

Note: As of this writing, the CDE has not implemented this requirement.

Collaboration with LCI Representative

A district shall invite at least one non-educational agency representative that has placement responsibility for a student residing in a LCI to collaborate with the district in the monitoring of a placement in a nonpublic, nonsectarian school or NPA.

Confidential Communication with IEP Team

A nonpublic, nonsectarian school shall ensure private and confidential communication between a student of the nonpublic, nonsectarian school and members of the student's IEP team, at the student's discretion.

Elementary District Notification to High School District

Review of the student's IEP shall be conducted at least annually by the district. The district shall ensure that review schedules are specified in the IEP and contract for the student. An elementary school district shall notify a high school district of all students placed in NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district.

Diploma Requirements

When a student with a disability meets district requirements for completion of prescribed course of study and adopted differential proficiency standards as designated in the student's IEP, the district that developed the IEP shall award the diploma.

Legal References

EC 48856; EC 56034; EC 56035; EC 56366; EC 56366.2; , EC 56366.9; EC 56366.11; EC 56366.12

Local Procedures

NPS placements are considered part of the continuum of services that districts must have available for students with disabilities. Districts may place students in NPSs only after exhausting all local resources. districts should consider placement opportunities and services within the district first and, after that, placements in other programs within the SELPA. If, after considering all local options, the IEP team determines that no appropriate public education program is available within the SELPA, the district may pursue placement in a NPS or NPA, provided that the NPS/A is certified by the state.

Licensed Children's Institution (LCI) Prohibitions/Out of Home Care

A LCI (also known as a group home) at which a student with a disability resides is forbidden by law to require, as a condition of residential placement, that the student attend a nonpublic, nonsectarian school or NPA owned, operated by or associated with that LCI. The student may be placed in the NPS only if the district and/or SELPA request such placement after determining that an appropriate public alternative educational program is not available.

Occasionally, when Child Welfare Services (CWS) or probation are trying to place a student out of county, the group home might refuse to take the student if the student doesn't have an IEP for a NPS. As a result, CWS or probation will request an IEP meeting for the student and expect the district to write an IEP for a NPS. The school does not have to agree to an NPS placement unless it feels it is appropriate for the students' educational needs.

Contracting Requirements

Contracts with NPSs or agencies shall be made on forms provided by the SELPA and shall include a Master Contract for each NPS/NPA and an Individual Services Agreement for each student. Contracts may be for partial or full-time attendance at a NPS. Individual services agreements shall specify the frequency, intensity, and duration of services for each service to be provided by the NPS/NPA and the duration of the contract, not to exceed one year. Changes to the services or placement shall be made only on the basis of revisions to the student's IEP.

The Master Contract specifies the administrative and financial agreements/responsibilities between the nonpublic, nonsectarian school or NPA, the DOR, and the SELPA with regard to the provision of special education and related services, including transportation, as specified in the student's IEP. The contract specifies the responsibilities of each party and should be reviewed carefully by the placing district. In the Humboldt-Del Norte SELPA, the SELPA office negotiates in-county NPA rates and executes Master Contract Agreements with those NPAs. The ISP are the responsibilities of the district procuring services for a student, with assistance provided by the SELPA.

Dual Enrollment in Public and Nonpublic School

IEP teams should be aware that attending a NPS does not pre-empt a student's right to integrate into public school as he/she is able. The issue of integration should be addressed as appropriate at each IEP meeting and, when appropriate, students should integrate into public school for specified subjects/activities. If the NPS is close enough, students should be allowed to integrate into the public school DOR. If distance prohibits this possibility, students should be allowed to integrate into their public school where the NPS is located.

Interim Placements (aka Transfer Students)

In the case of a student who becomes a legal resident of a district while attending a NPS/NPA as per a current IEP, the district should follow the directions in the section of this manual titled Interim Placements and, if the district intends to continue the NPS placement at the conclusion of the interim placement period, follow the placement procedures above. If a student was placed and residing in a residential nonpublic, nonsectarian school, prior to transferring to a district in another SELPA, and this placement is not eligible for funding pursuant to § 56836.165, the SELPA 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. (EC §56325(c)).

Out-of-State Placements

As part of the process of locating an appropriate placement, a district may place a student in a NPS outside the state of California, which is always done in consultation with the SELPA. Unless the district secures a waiver as discussed later in this section, the NPS must be certified or licensed by that state to provide special education and related services to students under the federal prior written notice (PWN). Out of state placements are rare, as they are highly restrictive placements. Regardless of the circumstances, if a district does place a student in an out-of-state, NPS, the district must comply with the following legal requirements:

1. The district must document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or NPA program, or both, within the state (this should be documented in the IEP).
2. The IEP team shall submit a report to the state Superintendent of Schools within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided and shall indicate the efforts of the district to locate an appropriate public school or nonpublic, nonsectarian school or NPA, or a combination thereof, within the state.
3. The district shall indicate the anticipated date for the return of the student to a public or nonpublic, nonsectarian school or NPA placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student (this should be documented in the IEP).

Unilateral Parent Placements

It is possible that a parent could place a student in a NPS without the prior knowledge or consent of the district and subsequently request the district to pay for the placement. Parents are not necessarily entitled to reimbursement provided that the district complies with certain legal requirements. districts must be cautious in dealing with these requests. This topic is addressed in the section of this manual titled Private School Students.

Waiver of Certification Requirements

A district may petition the Superintendent of the California Department of Education to waive one or more of the requirements for certification of an NPS/NPA. The petition shall state the reasons for the waiver request, and shall include the following:

1. Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific student's IEP and the student's current placement.
2. The period of time that the waiver will be effective during any one school year.
3. Documentation and assurance that the waiver does not abrogate any right provided to students with a disability and their parents or guardians under state or federal law and does not hinder the compliance of a district with the federal prior written notice (PWN), Section 504 of the federal Rehabilitation Act of 1973, the federal Americans with Disabilities Act of 1990 and federal regulations relating to those acts.

These waivers, as needed, are to be completed by the SELPA.

District Responsibilities

The DOR is responsible for the provision of free appropriate public education (FAPE) for students placed in NPSs/agencies and, in this regard, must play an active role in monitoring the appropriateness of the placement and progress of the student. The responsibilities of the DOR include but are not limited to the following:

1. Schedule IEP meetings according to the timelines set forth in the IEP and Master Contract but at least annually. In the case of students placed in residential settings, it is advised that the IEP be reviewed every 3 months.
2. Ensure that the IEP is written or revised to meet the unique needs of the student.
3. Review evaluations conducted by the NPS/A to ensure that they are appropriate and valid for measuring student progress.
4. Review all progress reports submitted by the NPS/A, and follow up with areas of concern as necessary.
5. Administer additional assessments as necessary, with parent consent, to determine whether the student is making appropriate educational progress.
6. Post course credits for high school students.
7. When a student with a disability meets the district requirements for completion of prescribed course of study and adopted differential proficiency standards as designated in the student's IEP, the district which developed the IEP shall award the diploma.
8. A district shall invite at least one non-educational NPA representative that has placement responsibility for a student residing in a LCI to collaborate with the district in the monitoring of a placement in a nonpublic, nonsectarian school or NPA.
9. The Superintendent or designee of an elementary school district shall notify a high school district of all students placed in NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district. The elementary school district shall invite a representative of the high school district to participate in the IEP meeting.

Confidential Consultation

At the student's discretion, members of the IEP team shall be available for private and confidential communication with the student. This means that if the NPS/NPA contacts the district to arrange a consultation at the request of a student, the district must make the appropriate IEP team member available. This requirement is discussed further in the IEP Team Members section of this manual.

Responsibility for Compliance

As stated earlier, the DOR is ultimately responsible for the provision of free appropriate public education (FAPE) to its students attending NPSs/agencies. For this reason, it is important that the DOR monitor the NPS/NPA to ensure that it complies with the requirements of each student's IEP. To accomplish this, districts should, at a minimum, monitor and review all academic reports from the NPS to determine educational benefit, follow-up on all areas of concern, and make on-site visitations periodically to observe the program. If a NPS is non-compliant or a student is not making expected progress, the district must schedule an IEP meeting and either correct the area of non-compliance or consider a change in placement.

Local Forms:

The Master Contract template can be provided by the SELPA upon request.

The Individual Service Plan (ISP) can be found in the individual student data section in SEIS.

FAQs

What happens if the curriculum at the NPS does not meet district requirements and the district will not grant course credit?

A NPS is not expected to implement a curriculum consistent with the DOR for every one of its students. They are expected to adopt a curriculum consistent with the district where the NPS is located. Regardless, the placing district should review the curriculum prior to placing a student and, if the curriculum is not acceptable, find another NPS.

Does the NPS have to provide every service in a student's IEP?

Not necessarily, the NPS must be certified to provide a related service and it may not be certified to provide certain services. Even if it is, the district has the right to decide whether to contract with the NPS for the service or provide the service in another manner.

How does a district monitor a placement in another state?

A SELPA Program Manager will be assigned to assist districts in monitoring the student's placement and making site visits. The district will need to continue to monitor the student for progress, as it is still responsible for providing the student with a FAPE.

In the case of dual enrollments, which public school does the student attend?

That is up to the IEP team. Considering that a student who is ready to integrate part time might eventually be a good candidate for returning full time to his or her DOR, it would seem that integration in a school in the DOR would be preferable. If distance prohibits the student from attending a school in the DOR, the student has a right to attend the district where the NPS is located.

REMINDERS

- The DOR is responsible for the provision of FAPE for all of its students, including those attending nonpublic schools/agencies.
- The district that wrote the IEP for a NPS is responsible for administering the diploma.
- Group homes may not limit placements dependent upon a student's enrollment in a NPS affiliated with the group home.
- Districts may only place students with a disability in CDE-certified nonpublic schools/agencies.
- Students may be placed in a NPS in another state if an appropriate program is not available in state.
- Students in nonpublic schools have the right to consult confidentially with a member of the IEP team.

PRIVATE SCHOOL STUDENT WITH DISABILITIES

Note: The following information pertains primarily to the responsibility of districts for referral, assessment and provision of service to students enrolled by their parents in private schools. It does not include requirements regarding consultation with representatives from private schools or expenditure of a proportionate share of federal funds. Details about these requirements are contained in SELPA Administrative Regulations.

Definition

District of Location (DOL)

The DOL refers to the district within which boundaries the private school is located.

District of Residence (DOR)

The DOR refers to the district within which boundaries the student with a disability resides.

Local Educational Agency, (LEA)

As used in this part, the Local Educational Agency (LEA) refers to a school district.

Private School Student with Disabilities

Private school student with disabilities are student with disabilities enrolled by their parents in private schools or facilities, including religious programs. Preschool student with disabilities are only considered to be parentally-placed private school student if they are enrolled in private schools or facilities that meet the definition of "elementary school" below. Preschool student who attend day care centers will be considered public school referrals.

Elementary School Definition

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, which provides elementary education, as determined under State law.

Private School or Facility

A private school is defined as an institutional day or residential school that provides elementary education, as determined under State law (CFR § 300.13). In order for a preschool to be considered a private school it must meet the previous definition. Private Day care centers do not meet this requirement, and, therefore, are not considered private schools.

Legal Requirements

Child Find

Each district must locate, identify and assess all student with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the district served by the district. In carrying out the requirements of this section, the district must undertake activities similar to the activities undertaken for the agency's public school student. The child find process must be completed in a time period comparable to that for students attending public schools in the district.

Each district in which private, including religious, elementary and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school student who reside in a state other than the state in which the private schools they attend are located.

Record Keeping

Each district must maintain in its records, and provide to the California Department of Education, the following information related to parentally-placed private school student:

1. The number of students evaluated;
2. The number of students determined to be students with disabilities; and
3. The number of students served.

Annual Count

Each district must determine the number of parentally-placed private school student with disabilities attending private schools located in the district and ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

Responsible Service Provider

To the extent consistent with the number and location of student with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the district served by the district, provision is made for the participation of those student in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services.

Determination of Services

No parentally-placed private school student with a disability has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Decisions about the services that will be provided to parentally-placed private school student with disabilities must be made in accordance with §§ 300.134 and 300.137. The district must make the final decisions with respect to the services to be provided to eligible parentally-placed private school student with disabilities.

If a student with a disability is enrolled in a religious or other private school by the student's parents and will receive special education or related services from a district, the district must:

1. Initiate and conduct meetings to develop, review and revise an ISP for the student; and
2. Ensure that a representative of the religious school or other private school attends each meeting. If the representative cannot attend, the district shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

Service Providers

The services provided to parentally-placed private school student with disabilities must be provided by personnel meeting the same standards as personnel providing service in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school student with disabilities do not have to meet the highly qualified special education teacher requirements.

The provision of equitable services for student enrolled in private schools by their parents 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. A district may use federal funds to pay for the services of an employee of a private school to provide services if:

1. The employee performs the services outside of his or her regular hours of duty; and
2. The employee performs the services under public supervision and control.

Individual Service Plan (ISP)

Each parentally-placed private school student with a disability who has been designated to receive services must have an individual plan that describes the specific special education and related services that the district will provide to the student in light of the services that the district has determined it will make available to parentally-placed private school student with disabilities. The ISP must, to the extent appropriate:

1. Meet the requirements of § 300.320, or for a student ages three through five, meet the requirements of § 300.323, with respect to the services to be provided; and
2. Be developed, reviewed and revised consistent with §§ 300.321 and 300.24.

Services

Special education and related services provided to parentally-placed private school student with disabilities, including materials and equipment, must be secular, neutral and non-ideological.

Services to parentally-placed private school student with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

If necessary for the student to benefit from or participate in the services provided under this part, a parentally-placed private school student with a disability must be provided transportation:

1. From the student's school or the student's home to a site other than the private school; and
2. From the service site to the private school, or to the student's home, depending on the timing of the services.

Districts are not required to provide transportation from the student's home to the private school. The cost of the transportation may be included in calculating whether the district has met the proportionate share requirement of § 300.133.

Due Process Complaints

Due process complaint procedures do not apply to complaints regarding the provision of services to parentally-placed private school student with disabilities.

Due process complaint procedures do apply to complaints regarding student find and evaluation and disagreements regarding the availability of a program appropriate for the student. Any due process complaint regarding the student find process must be filed with the district in which the private school is located.

Separate Classes

A district may not use funds for classes that are organized separately on the basis of school enrollment or religion of the student if:

1. The classes are at the same site; and
2. The classes include students enrolled in public schools and student enrolled in private schools.

Property, Equipment and Supplies

A public agency must control and administer the funds used to provide special education and related services and hold title to and administer materials, equipment and property purchased with those funds for the uses and purposes provided in the Act. The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program. The public agency must ensure that the equipment and supplies placed in a private school:

1. Are used only for Part B purposes;
2. 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:

1. The equipment and supplies are no longer needed for Part B purposes; or
2. Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

No funds under Part B of the Act may be used for repairs, minor remodeling or construction of private school facilities.

District Must Make Free Appropriate Public Education (FAPE) Available

The district shall not be required to pay for the cost of education, including special education and related services, of a student with a disability at a private school or facility if the district made a free appropriate public education (FAPE) available to the student and the parent of the student elected to place the student in the private school or facility.

Reimbursement for Private School Costs

If a parent or guardian of a student with a disability, who previously received special education and related services under the authority of the district, enrolls the student in a private elementary or secondary school without the consent of or referral by the district, a court or a due process hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or due process hearing officer finds that the district had not made a free appropriate public education (FAPE) available to the student in a timely manner prior to that enrollment and that the private placement is appropriate.

The cost of the reimbursement described above may be reduced or denied in the event of any of the following:

1. At the most recent IEP meeting that a parent or guardian attended prior to removal of the student from the public school, the parent or guardian did not inform the IEP team that they were rejecting the placement proposed by the district to provide a free appropriate public education (FAPE) to the student, including stating his or her concerns and the intent to enroll the student in a private school at public expense.
2. The parent or guardian did not give written notice to the district of the information described in subdivision (a) at least ten business days, including any holidays that occur on a business day, prior to the removal of the student from the public school.
3. Prior to the parent's or guardian's removal of the student from the public school, the district informed the parent of its intent to assess the student, including a statement of the purpose of the assessment that was appropriate and reasonable, but the parent or guardian did not make the student available for the assessment.
4. Upon a judicial finding of unreasonableness with respect to actions taken by a parent or guardian.

The cost of reimbursement shall not be reduced or denied for failure to provide the notice in the event of any of the following:

1. The school prevented the parent or guardian from providing the notice.
2. The parents had not received notice of the requirement to provide notice.
3. Compliance with the notice provision would likely result in physical harm to the student.

In the discretion of a court or a hearing officer, the cost of reimbursement may not be reduced or denied for failure to provide the notice in either of the following circumstances:

1. The parent or guardian is illiterate or cannot write in English.
2. Providing the required notice would likely result in serious emotional harm to the student.

Legal References

EC 56171; EC 56172; EC 56173; EC 56174; EC 56174.5; EC 56175, EC 56176; EC 56177, 34 CFR 300:130-148

Timelines

The same timelines apply to private school students as apply to public school students:

1. 15 calendar days from receipt of referral to the development of an Assessment Plan.
2. 60 calendar days, excluding school breaks longer than 5 days, from receipt of consent to assess to the development of the IEP or ISP.
3. Service Plans must be reviewed and revised as necessary annually.
4. Students must be reevaluated triennially.

Local Procedures

Overview

According to federal and state statute, the district of location (DOL) is responsible for processing special education referrals for students attending a private school located within the district's boundaries. The DOR is ultimately responsible for the provision of a free appropriate public education (FAPE) to all eligible students residing within their attendance area.

The districts in the Humboldt - Del Norte County SELPA agree to comply with the following:

1. The DOL shall locate, identify and assess all private school student with disabilities, including religiously affiliated school age student, who have disabilities and are in need of special education and related services attending private school with parental permission, the DOL will invite the DOR to collaborate in the assessment process. Both districts will cooperate in completion of the assessment upon parent request.
2. The DOR will offer a free and appropriate public education (FAPE) to all student, enrolled by their parents in private schools, including religious schools, who are determined to be eligible for special education services.

Referral

Prior to private school staff referring a student for a special education evaluation, it is recommended that the private school that conduct a student study team meeting to consider and, where appropriate, utilize the resources of the general education program.

If after considering, and, where appropriate, utilizing general education resources, it is determined that a private school student may be eligible for special education services, the private school should direct a referral to the district of location. The DOL will process the referral in the same manner that it processes referrals for public school students.

Note: Most, if not all, preschools in Humboldt - Del Norte County do not meet the definition of a "private school." Therefore, referrals are treated as public school referrals.

Parent and agency referrals for private school students should be treated the same as parent or agency referrals for public school students and such referrals will be sent to the student's DOR.

Evaluation

1. The DOL shall respond to the referral request with a written assessment plan or a written refusal to assess, i.e., prior written notice (PWN), within 15 calendar days of the date of receipt of referral. Note that the Office of Administrative Hearings (OAH) has held that all initial referrals should result in an assessment plan for a student, thus restricting the ability to send PWNs for most referrals for an initial assessment.
2. If an evaluation is deemed appropriate, the DOL shall complete a comprehensive evaluation in the same manner that it evaluates public school student.

Although the law places the burden on the DOL to identify, assess and serve private school student, the responsibility for the offer of free appropriate public education (FAPE) rests with the DOR. Therefore, it is critical that the DOL collaborate with the DOR throughout the process. For this reason, the DOL shall request written permission from the parent to share assessment results with the DOR at the same time that consent is requested for the evaluation. Due to its legal responsibility to offer free appropriate public education (FAPE), the DOR might wish to conduct the evaluations itself.

If the parent does not provide consent or fails to respond to the request to provide consent, the district may, but is not required to, pursue initial evaluation of the student by pursuing mediation or one of the due process procedures. The district does not violate its obligation if it declines to pursue the evaluation.

Individualized Education Program (IEP) Team Meeting and Offer of Free Appropriate Public Education (FAPE)

1. Within 60 days of the receipt of consent to assess, the DOL/DOR together shall conduct an IEP meeting.
2. The IEP team shall share the results of the evaluation and make the appropriate determination regarding eligibility. If the IEP team finds the student is eligible for services, the DOL will advise the parents regarding the rights of students placed by their parents in private schools, including the difference between an IEP and a services plan and do one of the following:
 - a. If the parents are interested in enrolling their student in public school or are unsure of their intentions, the IEP team shall assist the DOR representative in developing an IEP for the student (offer of FAPE). It is imperative that the DOR develop an IEP in the same manner that it develops IEPs for students attending school within the district, because this offer of free appropriate public education (FAPE) could be challenged in a due process hearing. If the parents agree and consent to the IEP, the IEP shall be implemented without delay following the IEP meeting and following the proper enrollment of the student at the DOR. If the parents agree with the IEP but decide to have their student attend the private school, the IEP team shall offer to develop an ISP for the student with the DOL.
 - b. If the parents are clearly not interested in enrolling their student in public school, but request that special education services be provided, the IEP team shall develop an ISP.
 - c. If the parents of a private school student with a disability indicate that they do not intend to enroll their student in a public school and do not want special education services for

their student, the IEP team will not develop an IEP or ISP and will note this in the IEP document.

- d. If the parents will not sign the above refusal of services, the IEP team should develop an IEP that offers the student a free appropriate public education (FAPE).

If the parent of the student fails to respond or refuses to consent to the initiation of services, the district shall not—and cannot—pursue mediation or due process.

If the parent of the student refuses to consent to the initial provision of special education and related services or if the parent fails to respond to a request to provide the consent, both of the following are applicable:

1. The district shall not be considered to be in violation of the requirement to make available a free and appropriate public education to the student or the failure to provide the student with the special education and related services for which the district requests consent.
2. The district shall not be required to convene an IEP team meeting or develop an IEP under this part for the student for the special education and related services for which the district requests consent.

Students Residing Outside the SELPA and Attending a Private School Inside the SELPA

In cases where the DOR is located outside the Humboldt - Del Norte SELPA, the DOL will collaborate with the DOR in the same manner as addressed above. If this is not feasible, the DOL shall process the referral without the involvement of the DOR.

Students Residing Inside the SELPA and Attending Private Schools Outside the SELPA

Federal law requires that the district where the private school is located be responsible for student find and processing referrals. Therefore, the DOL for a private school located outside of the boundaries of the Humboldt - Del Norte SELPA may or may not include the DOR in the referral process.

If contacted, the DOR will collaborate with the DOL as appropriate and be prepared to offer free appropriate public education (FAPE) at the IEP meeting. The DOR may conduct its own assessments as appropriate with parental consent.

Services

1. Each private school student with a disability, who has been designated to receive services under this policy, shall have an ISP that describes specific special education and related services that the DOL shall provide to the student. The services available on a service plan are determined by the SELPA Administrator in consultation with private school representatives.
2. The DOL must:
 - a. Initiate and conduct meetings to develop, review and revise a services plan for the student; and
 - b. Ensure that a representative of the religious school or other private school attends each meeting. If the representative cannot attend, the district shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.
3. If the ISP team determines that transportation is necessary for the student to benefit from or participate in the services provided in the student's service plan, the student shall be provided transportation, depending on the scheduling of the services:

- a. From the student's school or home to the service site, other than the private school; and/or
- b. From the service site to the private school or student's home.

Transportation shall not be provided from the student's home to the private school. The cost of transportation shall be included in calculating whether the Humboldt - Del Norte SELPA has spent its required proportionate amount of federal funding on private school student with disabilities.

4. No private school student with a disability has an individual right to receive some or all of the special education services that the student would receive if enrolled in public school.
5. The services provided pursuant to a service plan may be provided at a private school, including a religious school, to the extent consistent with law. The location of the services shall be set out in the student's ISP. Services and, when appropriate, materials and equipment must be secular, neutral and non-ideological. The SELPA shall not use its proportionate share of federal funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.
6. Services must be provided by personnel meeting the same standards as personnel providing services in the public schools with the exception that they do not have to meet the highly qualified requirement for special education teachers. Services may be provided by employees of a public school or through contract with an individual, agency, organization or other entity. The district may contract with private school personnel to provide services if the services are provided outside that person's regular school day and under the supervision of district personnel.

Note: Upon the initial development of an ISP, and each year after, the DOL shall send a copy of the service plan to the DOR with consent from the student's parents.

Annual Offers of a Free and Appropriate Public Education (FAPE)

1. All student with disabilities eligible for special education who reside in the Humboldt - Del Norte SELPA are entitled to receive free appropriate public education (FAPE) from the DOR, if they are enrolled in public school. The DOR must keep track of all eligible student with a disability living within its attendance area who attend a private school, whether or not the student is receiving services through a service plan. One year after an eligible private school student's initial IEP team meeting, and annually thereafter, the DOL shall obtain parent consent and shall send the DOR copies of service plans for all students currently receiving service and a list of students who are eligible for special education and not currently receiving services. Annually, the DOR shall notify the parents of eligible student in writing that the DOR:
 - a. Continues to offer free appropriate public education (FAPE) in accordance with federal and state laws and regulations;
 - b. Is ready, willing and able to schedule an IEP team meeting for the student in order to offer the student free appropriate public education (FAPE), subject to assessment, if appropriate, if the parents express an interest in enrolling their student in public school.

The parents shall be requested to send the document back to the DOR and indicate their agreement with one of the following statements:

- a. I understand that the DOR continues to offer my student a free and appropriate public education (including appropriate special education and related services) if he/she is enrolled in public school. I choose to continue to parentally place my student in a private school; and:
I am not interested in receiving any special education services under either a service plan or IEP, at this time. Or,

- b. I would like my student to continue to receive services pursuant to his/her ISP. I am not interested in enrolling my student in public school.
I am interested in enrolling my student in public school and/or discussing service and placement options in the public school. I would like to schedule an IEP team meeting for my student. Please call me at: [parent inserts phone number] in order to schedule the IEP meeting. If the parents do not return the form, the DOR shall send an IEP meeting notice to parents, convene an IEP meeting and complete an offer of free appropriate public education (FAPE) at the IEP meeting.
2. On the year when the triennial evaluation is due, the DOR shall conduct the triennial evaluation, as necessary and convene an IEP team meeting including a representative from the DOL. The IEP t shall determine the student's continuing eligibility for special education and, if the student continues to be eligible for services, either develop an IEP or ISP, as appropriate.

Child Count

The SELPA Administrator shall conduct an annual count of the total number of private school student with disabilities enrolled in private schools physically located within the boundaries of the Humboldt - Del Norte SELPA regardless of where the student resides. The count will include a survey of private school administrators and an analysis of data contained in the SELPA management information system (SEIS).

The student count shall be conducted for attendance on December 1 of the current year for private schools within the Humboldt - Del Norte SELPA boundaries.

The DOL shall maintain and annually report to the SELPA the following information related to parentally-placed private school student:

1. The number of student evaluated;
2. The number of student determined to be student with disabilities; and
3. The number of student served.

Parent Request for Reimbursement

Parents have the right to file for a due process hearing and request reimbursement for the cost of a private school, including a NPS, if the district did not make a free appropriate public education (FAPE) available for their student. A hearing officer can reduce or deny the request in the event of any of the following:

1. At the most recent IEP meeting the parent did not reject the proposed placement and state his/her concerns and intent to enroll the student in a private school; or
2. The parent did not submit written notice of the previous information at least ten business days prior to placing the student in a private school; or
3. Prior to the parent's removal of the student from school, the district proposed to conduct an evaluation and presented the parents with an assessment plan and copy of Procedural Safeguards but the parent did not make the student available for the assessment; or
4. Upon a judicial finding of unreasonableness with respect to actions taken by a parent or guardian.

When a parent indicates that he/she disagrees with the current or recommended placement, and is going to enroll his/her student in private school at district cost, the district should take steps to affirmatively deny the request. If the IEP team has not discussed placement at a meeting within the last month, an IEP meeting should be held to discuss why the parent is requesting a placement change. If necessary, the

IEP team should offer assessments to determine the student's current needs and to investigate any alleged needs raised by the parents. The IEP team should try to complete the IEP meeting prior to the expiration of the ten business days' notice. After the IEP meeting, or after an IEP meeting to discuss assessments if necessary, the district should deny the request for reimbursement of private school tuition through a detailed prior written notice (PWN) that explains why the current offer of services and placement provides the student with a free appropriate public education (FAPE). While this will not necessarily prevent the parent from filing for due process, it will put the district in a stronger position if the case does go to a hearing.

The district must also be cautious to avoid any procedural errors which could result in financial penalties. Following are examples of scenarios that districts should avoid.

The cost of reimbursement shall not be reduced or denied for the parent's failure to provide proper notice in the event of any of the following:

1. The district prevented the parent or guardian from providing the notice; or
2. The parents had not received notice of their Procedural Safeguards; or
3. If providing the ten-day written notice would likely result in physical harm to the student.

The cost of reimbursement may not be reduced or denied for failure to provide the notice in either of the following circumstances:

1. The parent or guardian is illiterate or cannot write in English.
2. Providing the notice would likely result in serious emotional harm to the student.

Local Forms

Individual Service Plan (ISP) found in SEIS

Authorization for Release of Information (to the DOR) APPENDIX A

FAQs

What if the district wants to provide services other than the agreed upon services in the service plan?

The DOL, in cooperation with the SELPA, determines the services to be provided to private school students.

What if the district writes an IEP for a private school student?

The IDEA intentionally limited the rights of students who attend private schools. While recognizing their right to a proportionate share of federal funds, it never intended for them to be entitled to the same level of service as students attending public schools. The DOL writing an IEP for a student attending a private school defeats that purpose and leaves the district open to due process liability that it otherwise is exempt from for private school students.

Who keeps track of whether the DOLs are spending their proportionate share of federal funds on private school students?

The districts that are DOLs are required to keep track of their spending on private school students.

REMINDERS

- Referrals for private school students should be treated the same as referrals for public school students. Time lines are the same for private school referrals as public school referrals.
- Services may be provided at the private school but instruction must be secular, neutral and non-ideological.
- The DOL is responsible for child find, evaluation and services pursuant to an ISP.
- The DOR is responsible for the offer of FAPE for a student in a private school.
- The DOL must provide services to private school students through a service plan NOT an IEP.

STUDENTS IN JUVENILE COURT AND COMMUNITY SCHOOLS

Legal Requirements

Special education programs authorized by this part shall be provided for students with a disability who have been adjudicated by the juvenile court for placement in a juvenile hall, or juvenile home, day center, ranch, or camp, or for students with a disability placed in a county community school.

Each SELPA shall develop written agreements to be entered into by entities participating in the local plan. The agreements shall include, but not be limited to, the following:

1. A description of the process for coordinating and providing services to students with a disability placed in juvenile court schools or county community schools.

Legal References

EC 56150; EC 56195.7

Local Procedures

Juvenile Court School

The Humboldt County Office of Education and the Del Norte County Office of Education are responsible for identifying and referring students placed in the Juvenile Hall who are suspected of being disabled. The HCOE and/or DNCOE will provide special education and related services as indicated on each student's IEP, or will hold an IEP to revise the student's services if needed.

Juvenile hall teaching staff shall notify the DOR whenever a student with an IEP is placed in juvenile hall and evaluate the current IEP to determine if it is appropriate. If staff determines that the IEP is inappropriate, they shall schedule an IEP meeting to amend the IEP as necessary. The DOR shall be invited to attend all IEP meetings for students from their attendance area. The DOR should make every effort to attend all IEP meetings, as once the student is released from juvenile hall, provision of free appropriate public education (FAPE) will be the DOR's responsibility.

FAQs

Can a student with a disability be placed in a Community Day School setting for disciplinary purposes as an interim alternative education setting?

Yes, provided that the reason for the placement meets the legal requirements for an IAES, plus the length of placement is limited to 45 school days.

What if the district wants to place a student in a Community Day School setting for disciplinary purposes but the parent refuses?

Unless the behavior meets the legal requirements for an IAES, without parent consent, the district cannot change the placement. Please note that the Community Schools might require parental participation to enroll a student.

REMINDERS

- Students with a disability in juvenile hall are the responsibility of the COE and are served by the COE while in this setting.
- Students in juvenile hall are entitled to special education and related services.
- Students cannot be placed in a Community Day School setting without parent consent, unless the placement is the result of expulsion or an interim alternative educational placement.
- Students in community day schools are entitled to special education and related services necessary to receive a FAPE.

STUDENTS RESIDING IN LICENSED CHILDREN'S INSTITUTION (LCI) OR FOSTER FAMILY HOMES

Definition

Licensed Children's Institution (LCI)

As used in this article, "licensed children's institution" means a residential facility that is licensed by the State or other public agency having delegated authority by contract with the state to license, to provide nonmedical care to student, including, but not limited to, students with a disability. LCI includes a group home as defined by subdivision (g) of § 80001 of Title 22 of the California Code of Regulations. As used in this article and Article 3 (commencing with § 56836.16) of Chapter 7.2, a LCI does not include any of the following:

1. A juvenile court school, juvenile hall, juvenile home, day center, juvenile ranch or juvenile camp administered pursuant to Article 2.5 (commencing with § 48645) of Chapter 4 of Part 27.
2. A county community school program provided pursuant to § 1981.
3. Any special education programs provided pursuant to § 56150.
4. Any other public agency.

Foster Family Home

As used in this article, "foster family home" means a family residence that is licensed by the state, or other public agency having delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, students with a disability. Foster family home includes a small family home as defined in paragraph (6) of subdivision (a) of § 1502 of the Health and Safety Code.

School of Origin

"School of origin" means the school that the foster child attended when permanently housed, or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and which the foster child attended within the immediately preceding 15 months, the liaison, in consultation with and the agreement of the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

Legal Requirements

It is the intent of the Legislature to ensure that all students in foster care, and those who are homeless as defined by the federal McKinney-Vento Homeless Assistance Act, have a meaningful opportunity to meet the challenging state student academic achievement standards to which all students are held.

In fulfilling their responsibilities to these students, educators, county placing agencies, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each student is placed in the least restrictive educational programs, and has access to the academic resources, services and extracurricular and enrichment activities that are available to all students. In all instances, educational and school placement decisions must be based on the best interests of the child.

LCI Prohibition

A LCI may not require that a child be identified as a student with a disability as a condition of admission or residency.

Placing Agency Requirements

Every agency that places a student in a LCI shall notify the district at the time a student is placed in a LCI. As part of that notification, the placing agency shall provide any available information on immediate past educational placements to facilitate prompt transfer of records and appropriate educational placement. Nothing in this section shall be construed to prohibit prompt educational placement prior to notification.

At the time of placement in a LCI or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

1. Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a student who is a ward or dependent of the court.
2. The location of the parents, in the event that the parents retain the right to make educational decisions.
3. Whether the location of the parents is unknown.

Least Restrictive Requirements

A student placed in a LCI or foster family home shall attend programs operated by the district, unless one of the following applies:

1. The student is entitled to remain in his or her school of origin pursuant to paragraph (1) of subdivision (d) of § 48853.5.
2. The student has an IEP requiring placement in a nonpublic, nonsectarian school or agency, or in another district.
3. The parent or guardian or other person holding the right to make educational decisions for the student pursuant to § 361 or 727 of the Welfare and Institutions Code or § 56055, determines that it is in the best interests of the student to be placed in another educational program.

Before any decision is made to place a student in a juvenile court school as defined by § 48645.1, a community school as described in §§ 1981 and 48660, or other alternative educational setting, the parent or guardian or person holding the right to make educational decisions for the student pursuant to § 361 or 726 of the Welfare and Institutions Code or § 56055, shall first consider placement in the general public school.

If any dispute arises as to the school placement of a student subject to this section, the student has the right to remain in his or her school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to any student served by the district.

Foster children living in emergency shelters, as referenced in the federal McKinney-Vento Homeless Assistance Act (42 USC § 11301 et seq.), may receive educational services at the emergency shelter as necessary for short periods of time for either of the following reasons:

1. For health and safety emergencies.
2. To provide temporary, special and supplementary services to meet the student's unique needs if a decision regarding whether it is in the student's best interests to attend the school of origin

cannot be made promptly, it is not practical to transport the student to the school of origin and the student would otherwise not receive educational services.

The educational services may be provided at the shelter pending a determination by the person holding the right to make decisions regarding the educational placement of the student.

All educational and school placement decisions shall be made to ensure that the student is placed in the least restrictive educational programs and has access to academic resources, services, and extracurricular and enrichment activities that are available to all students. In all instances, educational and school placement decisions shall be based on the best interests of the student.

In providing appropriate programs to students with a disability residing in LCIs or foster family homes, the district shall first consider services in programs operated by public education agencies for students with a disability. If those programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

Rights of Foster Children Removed from Their Home or Transferred

This section applies to any foster child who has been removed from his or her home pursuant to § 309 of the Welfare and Institutions Code, is the subject of a petition filed under § 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under § 300 or 602 of the Welfare and Institutions Code.

Each district shall designate a staff person as the educational liaison for foster children. In a district that operates a foster children services program pursuant to Chapter 11.3 (commencing with § 42920) of Part 24, the educational liaison shall be affiliated with the local foster children services program. The liaison shall do all of the following:

1. Ensure and facilitate the proper educational placement, enrollment in school and checkout from school of foster children.
2. Assist foster children when transferring from one school to another or from one district to another in ensuring proper transfer of credits, records and grades.

This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or guardian retaining educational rights, a responsible adult appointed by the court to represent the student pursuant to § 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under § 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of school of origin.

At the initial detention or placement, or any subsequent change in placement of a foster child, the district serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the academic school year.

The liaison may recommend that the foster child's right to attend the school of origin be waived and the foster child be enrolled in any public school that students living in the attendance area in which the foster child resides are eligible to attend, so long as the decision is made in consultation with, and in agreement with, the foster child and the person holding the right to make educational decisions for the foster child, and the decision is in accordance with the foster child's best interests.

Prior to making any recommendation to move a foster child from his or her school of origin, the liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how this recommendation serves the foster child's best interest.

If the liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by his or her transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks or other items or moneys due to the school last attended or is unable to produce records or clothing normally required for enrollment, such as previous academic records, medical records (including immunization records), proof of residency, other documentation (including IEPs), or school uniforms.

The liaison for the new school shall, within two business days of the foster child's request for enrollment, contact the school last attended by the foster child to obtain all academic and other records. All required records shall be provided to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The school liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

If any dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the Uniform Complaint Procedures of the district, as described in 5 C.C.R. § 4600.

The district and the county placing agency are encouraged to collaborate to ensure maximum utilization of available federal monies, to explore public-private partnerships, and to access any other funding sources to promote the well-being of foster children through educational stability.

Residential and Non-Educational Costs

If a district, SELPA or county office does not make the placement decision of a student with a disability in a LCI or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding a district, placing the student in the institution, shall be responsible for the residential costs and the cost of non-education services of the student. The district serving the foster youth is required to make any residential placement necessary for the student to receive educational benefit, regardless of the residential or home placement made by any other agency.

Residential Status

Students with a disability placed in a LCI or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency be considered residents of the geographical area of the local plan in which the LCI or foster family home is located, for special education and related services pursuant to the provisions of this article.

SELPA Requirements

Each SELPA shall be responsible for providing appropriate education to students with a disability residing in LCI and foster family homes located in the geographical area covered by the local plan.

Each SELPA shall develop written agreements to be entered into by entities participating in the local plan. The agreements shall include, but not be limited to, the following:

1. A description of the process for coordinating and providing services to students with a disability placed in LCIs and foster family homes.

Legal References

EC 48850; EC 48852; EC 48853; EC 48853.5; EC 48854; EC 56155; EC 56155.5; EC 56155.7; EC 56156; EC 56156.4 EC 56157; , EC 56159; EC 56162; EC 56195.7

Local Procedures

The basic responsibilities of districts relative to students residing in LCIs and foster family homes are fairly simple. Each district is responsible for the identification, evaluation, IEP development and provision of special education and related services to students with a disability residing in LCIs and foster family homes within the geographical area of the district. Districts may either provide the required services directly, through agreement with another district within the SELPA, through another public agency, or through contract with an appropriate NPS/NPA.

The most important decision with regard to foster children is placement. This can often be a complex decision that requires careful consideration and observance of a variety of general education and special education laws.

The guiding principle is that all educational and school placement decisions must be made to ensure that the student is placed in the least restrictive educational programs and has access to academic resources, services and extracurricular and enrichment activities that are available to all students. In all instances, educational, and school placement decisions shall be based on the best interests of the student.

In general, a student placed in a LCI or foster family home shall attend programs operated by the district, unless one of the following applies:

1. The student is entitled to remain in his or her school of origin.
2. The student has an IEP requiring placement in a nonpublic, nonsectarian school or NPA, or in another district.
3. The parent, guardian, or other person holding the right to make educational decisions for the student, determines that it is in the best interests of the student to be placed in another educational program.

Role of the Educational Liaison for Foster Children

Every district is supposed to designate someone to act as the educational liaison for foster children. According to the Education Code, this person is responsible for facilitating the placement of all children living in LCIs or foster family homes, including students with a disability. It is the responsibility of the district to delineate the role of the liaison. The following are examples of typical liaison activities:

1. Review the case to determine the feasibility and appropriateness for the student to continue attending the school of origin.

2. Inform the person responsible for educational decisions of the right of the student to continue his/her education at the school of origin for the remainder of the school year.
3. If the liaison determines that it is in the best interest of the student to attend a program other than the school of origin (including a NPS as per an IEP) he/she will submit a written recommendation to the student and the person responsible for making educational decisions stating the basis for the recommendation and how this recommendation serves the foster child's best interest.
4. The liaison will, in consultation with the student and the person responsible for making educational decisions, decide whether the student will continue attending the school of origin or move to another program.
5. If the student will continue attending the school of origin, the liaison will make arrangements for the student to continue that placement for the remainder of the school year. In the case of a student with a disability, the school year includes the extended school year program if indicated in the IEP.
6. If the student is to enroll in a district program, the liaison will make arrangements for the immediate enrollment of the student.
7. In the case of a dispute, the student will be allowed to continue in the school of origin until the dispute is resolved.

Role of Special Education Staff

In the case of a student with a disability, the educational liaison for foster children may not have the expertise necessary for determining whether it would be better for the student to remain in the school of origin or enroll in a district or SELPA-operated program. In these cases, the designated special education administrator should collaborate with the liaison regarding the appropriate recommendation.

Placement in a Community Day School

Before any decision is made to place a student in a community school as described in §§ 1981 and 48660, or other alternative educational setting, the parent or guardian, or person holding the right to make educational decisions for the student pursuant to § 361 or 726 of the Welfare and Institutions Code or § 56055 of the EC, shall first consider placement in the general public school.

Service to Students in Emergency Shelters

For foster children living in emergency shelters, as referenced in the federal McKinney-Vento Homeless Assistance Act, districts shall provide educational services at the emergency shelter as necessary for short periods of time for either of the following reasons:

1. For health and safety emergencies.
2. To provide temporary, special, and supplementary services to meet the student's unique needs if a decision regarding whether it is in the student's best interests to attend the school of origin cannot be made promptly, if it is not practical to transport the student to the school of origin, or if the student would otherwise not receive educational services.

The educational services may be provided at the shelter pending a determination by the person holding the right to make decisions regarding the educational placement of the student. Services cannot be provided at an emergency shelter without the consent of the educational rights holder.

Authority to Make Educational Decisions

It can be difficult to ascertain who holds educational rights for students with disabilities living in LCIS and foster family homes. Every agency that places a student in a LCI is supposed to notify the district at

the time a student is placed in a LCI. As part of that notification, the placing agency is supposed to provide any available information on immediate past educational placements to facilitate prompt transfer of records and appropriate educational placement.

Also at the time of placement, each court, regional center for the developmentally disabled or public agency that places a student in an LCI or FFH is supposed to identify all of the following:

1. Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a student who is a ward or dependent of the court.
2. The location of the parents, in the event that the parents retain the right to make educational decisions.
3. Whether the location of the parents is unknown.

Unfortunately, placing agencies sometimes do not provide this information. If a district is unable to obtain this information from the appropriate agency representative in a timely manner, the district should contact the SELPA for assistance.

Residential Status

Students with a disability placed in a LCI or foster family home by a court, regional center for the developmentally disabled, or public agency, other than an educational agency, shall be considered residents of the district in which the LCI or foster family home is located, for special education purposes.

Residential and Non-Educational Costs

If a district, SELPA or county office does not make the placement decision of a student with a disability in a LCI or in a foster family home, the court, regional center for the developmentally disabled, or public agency, excluding a district, placing the student in the institution, is responsible for the residential costs and the cost of non-education services of the student.

Disputes

Students have a right to continue attending their school of origin for the remainder of the school year if it is geographically feasible to do so. In the case of a student with a disability, the remainder of the school year includes the extended school year. If there is a dispute, however, with regard to the placement of a student with a disability, the student has the right to continue in the school of origin while the dispute is being resolved.

FAQs

Who is responsible for transportation if a student continues in their school of origin?

If the student is a foster youth, the district is not required to provide transportation to a school of origin unless such transportation is a related service in the student's IEP (EC 48853.5). If the student is a homeless youth, and if the student's temporary residence and the school of origin are in the same district, that district must provide or arrange the student's transportation to and from the school of origin. If the student is a homeless youth, and if the student is living outside of the school of origin's district, the district where the student is staying and the school of origin's district must determine how to divide the responsibility and cost of providing transportation, or they must share the responsibility and cost equally (42 U.S.C. § 11432(g)(1)(J)(iii)(II)).

If the school of origin is a NPS who has to pay for it?

Responsibilities for payment of costs for LCIs and foster family homes are complex and partly outlined SELPA in this manual in the sections on NPS/NPA and LCI/foster family home policies. Please consult the SELPA when a specific situation arises.

What if we don't have an educational liaison for foster children?

You are required to have a foster youth educational liaison. Someone has to assume this responsibility. Check with your COE to see if the COE has a foster youth liaison to assist your district.

REMINDERS

- In general, foster children and homeless children have the same rights with regard to "school of origin" and special education placement.
- For students placed in LCIs and foster family homes by a court or regional center, the DOR is the district where the LCI or foster family home is located.
- For students placed in LCI's or foster family homes through the IEP process, the DOR is the district that made the placement.
- Upon initial placement or mid-year transfer, foster and homeless children have a right to attend their school of origin for the remainder of the school year.
- Districts must first consider placements within the district before placing a foster or homeless child in a nonpublic school.
- Remaining in the school of origin for the remainder of the school year includes the extended school year.

DEFINITION OF PARENT

Definition

According to EC §56028, Parent means any of the following:

1. A biological or adoptive parent.
2. A foster parent if the authority of the biological or adoptive parents to make educational decisions on the student's behalf specifically has been limited by court order.
3. A guardian generally authorized to act as the student's parent or authorized to make educational decisions for the student.
4. An individual acting in the place of a biological or adoptive parent, including grandparent, stepparent, or other relative with whom the student lives or an individual who is legally responsible for the student's welfare.
5. A surrogate parent appointed by the district.

Except as provided in number two above, the biological or adoptive parent, when attempting to act as the parent, and when more than one party is qualified to act as parent, shall be presumed to be the parent unless they do not have legal authority to make educational decisions for the student.

If a judicial decree or order identifies a specific person or persons listed in number 1 – 4 above to act as the parent or to make educational decisions on behalf of a student, that person or persons shall be determined to be the parent. Such an order would limit the rights of any biological or adoptive parent.

Parent does not include the State or any political subdivision of the government.

Parent does not include a nonpublic, nonsectarian school or agency under contract with a district for the provision of special education or designated instruction and services for a student.

Legal Requirements

This section only applies if the juvenile court has limited the right of the parent or guardian to make educational decisions on behalf of the student and the student has been placed in a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of § 366.221, § 366.22, § 366.26, or paragraph (5) or (6) of subdivision (b) of § 727.3 of the Welfare and Institutions Code.

A foster parent shall include a person, relative caretaker or non-relative extended family member who has been licensed or approved by the county welfare department, county probation department or State Department of Social Services, or who has been designated by the court as a specified placement.

The foster parent may represent the foster student for the duration of the foster parent/foster student relationship in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP and in all other matters relating to the provision of a free appropriate public education (FAPE) of the student. The foster parent may sign any consent relating to IEP purposes. The foster parent may consult with the parent or guardian of the student to ensure continuity of health, mental health, or other services. A foster parent who has been excluded by court order from making educational decisions on behalf of a student does not have the rights described above.

Legal References

EC 56028; EC 56055, 34 CFR 300:30

Local Procedures

Foster Youth

It is important to determine who has educational rights for a student for special education purposes, as the person designated as the student's "parent" has the right to consent or revoke consent. While most of the examples above are self-explanatory, administrators and case carriers need to be cautious in determining whether the foster parent can be considered the parent. In order to do so, the district must do the following:

1. Obtain a copy of the court order limiting the parents' rights to make educational decisions for their student. This should be available from the student's probation officer or social service caseworker. The order should specifically state that the parent's rights are limited. In the absence of such a statement, the district cannot consider the foster parent the parent.
2. Establish whether the student is in a permanent living situation as defined above. Once again this information should be available from the student's caseworker. If the student is not in a permanent living situation (most are not), the district may consider appointing the foster parent as the surrogate parent. The procedures for appointing a surrogate parent are discussed in the Surrogate Parent Section of this manual.
3. Ensure that the individual with educational rights is invited to and participates in all IEP meetings.

While not addressed above, an adult student is not required to have a parent sign consent for them. Unless they are unable to care for themselves and have been legally conserved, they can give consent for special education purposes without parent approval.

FAQs

What if the step-parent wants to act as the parent?

Provided that the student is living with the stepparent, that person meets the legal definition of parent. Caution should be used; as divorced parents will often have a court order that specifically lists who has legal rights over the student. Unless the stepparent is listed in the order, he/she would not be permitted to act as the parent.

What if the student is not in a permanent living situation but the court appoints that person as the parent for educational purposes?

The court has the right to appoint someone to act as parent.

REMINDERS

- The law defines 'parent' for special education purposes.
- Before assigning the foster parent or a surrogate to act as parent check the court order to make sure the biological or adoptive parent's rights have been limited.
- If the court order does not specifically limit a parent's right to make educational decisions, they have not been removed.
- Before accepting the foster parent as parent, check to see if the student is in a permanent living situation.

SURROGATE PARENTS

Definition

A surrogate parent is a person appointed by the court or district to act as the parent for a student for special education purposes.

Legal Requirements

Conditions for Appointing a Surrogate

Districts shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances:

1. No parent or guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code §§ 300, 601, or 602 and all of the following conditions are satisfied:
 - a. The court has referred the student for special education and related services or the student has a valid IEP (IEP).
 - b. The court has specifically limited the right of the parent or guardian to make educational decisions for his/her student.
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code §§ 361 or 726 or EC § 56055.
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC § 11434.

Districts must have a method for determining whether a student needs a surrogate parent and for assigning a surrogate parent to the student.

Selection of a Surrogate Parent

Districts shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 calendar days after there is a determination by the district that a student needs a surrogate parent. When appointing surrogate parents, the district shall give first preference to a relative caretaker, foster parent, or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the district shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the district shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student.

The district will ensure that a person selected to act as a surrogate parent:

1. Is not an employee of the state education agency (SEA) or district, or any other agency that is involved in the education or care of the student:
 - a. An employee of a NPA that only provides non-educational care is not considered an employee as defined above.
 - b. A person is not considered an employee of the district solely because he or she is paid by the district to act as a surrogate parent.
2. Has no personal or professional interest that conflicts with the interest of the student the surrogate parent represents. An individual who would have a conflict of interest means a person

having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the student has a free appropriate public education (FAPE).

3. Has knowledge and skills that ensure adequate representation of the student.

Except for individuals who have a conflict of interest in representing a student, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers and probation officers who are not employees of the state department of education, the district, or any other agency that is involved in the education or care of the student.

In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and outreach programs may be appointed as “temporary” surrogates until a surrogate parent meeting the above requirements can be appointed.

Duties of Surrogate Parent

Surrogate parents shall serve as the student’s parent and have all the rights relative to the student's education that a parent has under the prior written notice (PWN) pursuant to 20 USC §§ 1414-1482 and 34 CFR §§300.1-300.756. Surrogate parents may represent the student in matters relating to special education and related services, including identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in all other matters relating to the provision of a free and appropriate public education for the student. This representation shall include the provision of written consent to the IEP, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services.

Surrogate parents are required to meet with the student at least one time. He or she may meet on additional occasions, attend IEP meetings, review the student’s educational records, consult with persons involved with the student’s education and sign any consent relating to IEP purposes. Surrogate parents should be sensitive to the student’s cultural background. Surrogate parents shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the student.

Period of Representation

The surrogate parent may represent the student until:

1. The student is no longer in need of special education;
2. The minor reaches 18 years of age, unless the student chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent;
3. Another responsible adult is appointed to make educational decisions for the student; or
4. The right of the parent to make educational decisions for the student is fully restored.

Termination of Appointment

districts shall terminate the appointment of a surrogate parent under the following conditions:

1. The person is not properly performing the duties of a surrogate parent.
2. The person has an interest that conflicts with interests of the student entrusted to his or her care.

Surrogate parents may resign from their appointment only after he/she gives notice to the district.

Hold Harmless

Surrogate parents and the districts appointing them shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless or malicious.

Legal References

EC 56050, GC 7579.5, 34 CFR 300.519

Timelines

A surrogate parent will be appointed within 30 calendar days of the district's determination that a student is in need of a surrogate parent.

Local Procedures

Because the 2004 amendments to the IDEA changed the definition of parent and the courts have begun appointing educational representatives for student adjudicated as dependents or wards of the court, there should be few times when it is necessary to appoint a surrogate parent. But when the situation arises, the district must be prepared to take appropriate action.

When to Appoint a Surrogate Parent

The district should appoint a surrogate parent whenever one of the following scenarios occurs:

1. Neither the biological nor adoptive parent can be identified or located and the student is not a dependent or ward of the court and the student is not homeless.
2. Neither the biological nor adoptive parent can be identified or located and the student is a dependent or ward of the court and the court has not limited the parent's right to make educational decisions. The distinction here is when the court limits the right of a parent to make educational decisions, the foster parent is considered to be the parent, or the court appoints a third party to hold educational rights.
3. The biological or adoptive parent can be identified and located and the student is a dependent or ward of the court and the court has limited the parent's right to make educational decisions, but the student is not in a permanent living situation in a foster home.
4. The student is an unaccompanied homeless youth not in the custody of a parent or guardian. Appropriate staff of emergency shelters, transitional shelters, independent living programs and street outreach programs may be appointed as "temporary" surrogates until a surrogate parent meeting the necessary requirements can be appointed.

In order to determine whether a court order specifically limits the rights of a parent to make educational decisions, the district should contact the student's caseworker and obtain a copy of the court order. If the order does not specifically limit the rights of the parent, the district must assume that the parent maintains those rights and involve him/her in all matters related to special education.

How to Appoint the Surrogate Parent

Districts shall provide a list of perspective candidates to serve as surrogate parents to the SELPA. The SELPA shall provide training in identification, assessment, IEP development and procedural safeguards to surrogate parents so that they can adequately represent the interests of their students. The SELPA shall maintain a list of persons qualified to act as surrogate parents for districts.

It can be difficult to find qualified persons who are willing to act as surrogate parents. If the district is unable to identify someone through the SELPA, the district will have to locate someone else on their own. Retired teachers or a current parent of a student with a disability are the best places to start looking.

In either case, make sure that the surrogate parent puts their title next to their name on all official special education documents.

Surrogate Parent Duties

Surrogate parents may represent the student in matters relating to special education and related services, including identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in all other matters relating to the provision of a free and appropriate public education for the student. They can sign any consent related to the IEP, including consent for non-emergency medical services, mental health treatment services, and occupational or physical therapy services.

In addition to the above, surrogate parents are also required to meet with the student at least one time. He or she may meet on additional occasions, attend IEP meetings, review the student's educational records and consult with teachers and other persons involved with the student's education. Upon request, the district should make these people available to the surrogate parent. In accommodating such requests, however, the district should schedule meetings in a manner that does not interfere with the instructional day.

Termination of Appointment

The district should terminate the appointment of a surrogate parent under any of the following conditions:

1. The person is not properly performing the duties of a surrogate parent.
2. The person has an interest that conflicts with interests of the student entrusted to his or her care.

The district has the right to determine when a surrogate parent is not performing their duties properly. Surrogate parents may resign from their appointment only after he or she gives notice to the district.

Recruitment and Training

The district should provide a list of prospective candidates to serve as surrogate parents to the SELPA. The SELPA will provide training in identification, assessment, IEP development and procedural safeguards to surrogate parents so that they can competently represent the interests of their students. The SELPA shall maintain a list of persons qualified to act as surrogate parents for districts to draw from.

Reimbursement of Surrogate Parent

Surrogate parents should be considered volunteers to the district and serve without compensation. The district may, however, reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents. For example, the district might give a small stipend for certain tasks, i.e., attending IEP meetings, consults with the student, etc.

FAQs

Can a current district staff member, the current CWS caseworker or social worker, or probation officer act as the surrogate parent?

No, they cannot. They are employees of an agency that is responsible for the education, care, and/or custody of the student.

What do I do if the surrogate parent becomes unreasonable and or acts in a manner that is counterproductive to the needs of the student?

It is the responsibility of the district to terminate the appointment of a surrogate parent who is not fulfilling his/her duties properly.

REMINDERS

- The conditions for appointing a surrogate parent are limited. Always check first.
- There are strict limitations on who can act as a surrogate parent. Always check first.
- In the case of foster children, always check the court order to see if the parent's rights have been limited.
- In the case of foster children, always check to see if the foster home is a permanent living situation.
- Make sure the person assigned to act as a surrogate parent is qualified.
- The SELPA will train perspective surrogate parents.
- The district can terminate the assignment of a surrogate parent.
- The surrogate parent has the right to meet with the student, meet with staff, review records, attend IEP meetings and provide signed consent.

TIMELINES SUMMARY

Legal Requirements

The primary timelines affecting special education programs are as follows:

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.

(e) A parent or guardian shall be notified of the individualized education program team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5. In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.

(f) (1) 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 calendar 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 or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to Section 56344. (2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(g) (1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345. (2) The individualized education program for pupils in grades 7 to 12, inclusive, shall include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, pursuant to paragraph (1) of subdivision (b) of Section 56345. (3)

Beginning not later than one year before the pupil reaches 18 years of age, the individualized education program shall contain a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching 18 years of age, pursuant to Section 56041.5, subdivision (g) of Section 56345, and Section 300.520 of Title 34 of the Code of Federal Regulations.

(h) Beginning at the age of 16 years or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code.

(i) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting, pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(j) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343. The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1, pursuant to subdivision (a) of Section 56380.

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section 56381, and in accordance with Section 1414(a)(2) of Title 20 of the United States Code.

(l) A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar 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 or guardian's written request, pursuant to Section 56343.5.

(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable pursuant to Section 56325: (1) If the child 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 or guardians, 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, pursuant to paragraph (1) of subdivision (a) of Section 56325. (2) If the child 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 state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325. (3) If the child has an individualized education program and transfers from an educational agency located outside the state to a district within the state 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 or guardians, until the local educational agency conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325. (4) In order to facilitate the transition for an individual with exceptional needs described in paragraphs (1) to (3), inclusive, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records, as specified, pursuant to subdivision (b) of Section 56325.

(n) The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made by the parent or guardian, either orally or in writing, and before any meeting regarding an individualized education program of his or her child or any hearing or resolution session pursuant to Chapter 5 (commencing with Section 56500), in accordance with Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(o) Upon receipt of a request from a local educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy of those records, to the new local educational agency within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

(p) The department shall do all of the following: (1) Have a time limit of 60 calendar days after a complaint is filed with the state educational agency to investigate the complaint. (2) Give the complainant the opportunity to submit additional information about the allegations in the complaint. (3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). (4) Issue a written decision pursuant to Section 300.152(a)(5) of Title 34 of the Code of Federal Regulations.

(q) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the Superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.

(r) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, except that this timeline shall not apply to a parent if the parent was prevented from requesting the due process hearing, pursuant to subdivision (1) of Section 56505.

(s) The Superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (f) of Section 56502.

(t) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be given to the other party at least 10 calendar days before the hearing, pursuant to subdivision (a) of Section 56507.

(u) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days before the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

(v) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days before the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.

(w) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (k) of Section 56505.

(x) A complaint filed with the department shall allege a violation of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred not more than one year before the date that the complaint is received by the department, pursuant to Section 56500.2 and Section 300.153(c) of Title 34 of the Code of Federal Regulations.

Legal Reference

EC 56043

TRANSPORTATION AGREEMENTS

Local Procedures

The following information pertains to local agreements regarding the transportation of students with special education needs in Humboldt - Del Norte SELPA. Procedures for addressing transportation as a related service in the IEP are addressed in the section in this manual titled IEP Contents.

Transportation Responsibility:

Home to school transportation, transportation to school sponsored activities and transportation services designated in a student's IEP are the responsibility of the DOR. The DOR may provide the service directly or through agreements with other public or private agencies or the parent. In cases where transportation is provided through agreement with another entity, financial and other arrangements related to the agreement are the responsibility of the DOR.

The DOR for students attending preschools is the K-8 or unified district where the student resides. The DOR for students attending special education programs for adults is the high school or unified district where the student resides.

Length of Ride

The length of ride for student with a disability should be similar to that of students without disabilities except in cases where the distance to a student's home exceeds that of the other students and where a student attends a program outside his neighborhood school or DOR.

In cases where a student attends a program outside his/her DOR, the IEP team will review the student's placement annually to determine if a placement closer to the student's residence would be appropriate.

In no case should a student with a disability day be shortened to accommodate transportation schedules.

Medications

Medications to be taken by the student while at school shall not be transported on a school bus in any manner including student bags or backpacks. It is the responsibility of the parent to transport their child's medication to and from school. Medications may be transported on the school bus for students who self-administer medications and for students who require that medications be available for emergency purposes, provided that the parents provide all required information from the student's physician, the school has developed an appropriate health plan, and staff, including bus drivers, have been informed and, when necessary trained, in proper procedures regarding the student's individual needs.

Discipline and Behavior Interventions

Students with disabilities are subject to the same rules of discipline governing regular transportation, unless the student has a behavior plan indicating otherwise. School bus drivers will be trained to implement behavior interventions as indicated in a student's behavior plan. A manifestation determination (MD) meeting should be held prior to expulsion from the general education school bus.

Suspension

During the period of any exclusion from bus transportation, a student with the related service of transportation must be provided with an alternative form of transportation at no cost to the student or parent in order to be assured of having access to the required special education instruction and services.

EC 48915.5(c) reads: "If an individual with exceptional needs is excluded from school bus transportation, the student is entitled to be provided with an alternative form of transportation at no cost to the student or parent or guardian provided that transportation is specified in the student's individualized education program."

In Lieu Transportation

When the district is unable to provide the necessary transportation services for a student, they may enter into an agreement with the parent to provide services in lieu of transportation. Parents who agree to provide in lieu services for their student will be reimbursed for their mileage at the same rate as district employees.

MEDICATIONS

Legal Requirements

State and district personnel are prohibited, pursuant to paragraph (25) of subsection (a) of § 1412 of Title 20 of the United States Code, from requiring a student with a disability to obtain a prescription for a medication that is a substance covered by the Controlled Substances Act (21 USC § 801 et seq.) as a condition of attending school, receiving an assessment under subsection (a) or (c) of § 1414 of Title 20 of the United States Code, or receiving services under the IDEA.

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

Legal References

EC 56040.5, 34 CFR 300.174

Local Procedures

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

Schools must be sensitive to the fact that using medication to treat disorders has been, and continues to be, a controversial issue to some parents. Nothing in this part prohibits teachers or other school personnel from consulting with parents about their student's behavior, but the focus needs to be on sharing classroom-based observations regarding the student's academic and functional performance or behavior, or regarding the need for evaluation for special education or related services. When discussing possible interventions, staff should focus on school/home based behavioral interventions and avoid discussions about the use of medication. It may be helpful for an IEP team to understand a student's medication in order to plan for changes in behavior related to medication changes. However, the IEP team should be careful not to opine on medication needs of the student. In addition to the prohibition discussed above, if a district recommends that a parent get a medical evaluation, the district is responsible for the cost of the evaluation.

FAQs

Can school personnel merely suggest that a parent take their student with suspected ADHD to a doctor for an evaluation?

No, this is not a good idea. Conversations like this are easily misinterpreted and even though the intention might be to suggest, the interpretation might be to demand. The district could also be responsible for the cost of the medical evaluation.

How are we supposed to deal with a student who is destroying school property when the parent refuses to put him/her on medication?

Regardless of the cause, the needs of students with behavior problems should be addressed through the use of behavior supports, e.g., behavioral goals, behavior support plans, etc., services, and/or placement.

REMINDERS

- Schools are prohibited from requiring students to take prescription medications.
- School personnel must be cautious when consulting with parents regarding taking medication.
- Schools may not make special education services dependent upon whether a student takes a prescription medication.
- If a district recommends that a parent get a medical evaluation, the district will be responsible for the cost of the evaluation.

PRIOR WRITTEN NOTICE (PWN)

Definition

Written notice provided to parents when a district proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of a student, or the provision of a free appropriate public education (FAPE) to a student.

Legal Requirements

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

The notice required above shall, in accordance with § 300.503(b) of Title 34 of the Code of Federal Regulations, include all of the following:

1. A description of the action proposed or refused by the public agency.
2. An explanation of why the public agency proposes or refuses to take the action.
3. A description of each assessment procedure, assessment, record, or report the public agency used as a basis for the proposed or refused action.
4. A statement that the parents of a student with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for assessment, the means by which a copy of a description of the procedural safeguards can be obtained.
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part.
6. A description of other options that the IEP team considered and the reasons why those options were rejected.
7. A description of other factors that are relevant to the proposal or refusal of the agency.

As provided in § 300.102(a)(3)(iii) of Title 34 of the Code of Federal Regulations, parents or guardians of a student with a disability shall be given reasonable prior written notice (PWN), in accordance with § 56500.4, that their student will be graduating from high school with a general high school diploma because graduation from high school with a general diploma constitutes a change in placement.

Notice in Understandable Language

prior written notice (PWN) must be in a language understandable to the general public; and provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the public agency must take steps to ensure:

1. That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
2. That the parent understands the content of the notice; and
3. That there is written evidence that the preceding two requirements have been met.

District Response to a Due Process Complaint

If the district has not sent a prior written notice (PWN) under § 300.503 to the parent regarding the subject matter contained in the parent’s due process complaint, the district must, within 10 calendar days of receiving the due process complaint, send to the parent a response that includes all of the requirements of prior written notice (PWN).

District Response to Parent Revocation of Consent

If at any time subsequent to the initial provision of special education and related service, the parent of a student revokes consent in writing for the continued provision of special education and related services, the public agency,

1. May not continue to provide special education and related services to the student, but must provide prior written consent in accordance with 300.503 before ceasing the provision of special education and related services;
2. May not use the procedures in § 300.506-300.516 in order to obtain agreement or a ruling that the services may be provided to the student;
3. Will not be considered to be in violation of the requirement to make free appropriate public education (FAPE) available to the student because of the failure to provide the student with further special education and related services; and
4. Is not required to convene an IEP team meeting or develop an IEP under section 300.320 and 300.324 for the student for further provision of special education and related services.

Legal References

EC 56500.4; EC 56500.5; EC 56502, 34 CFR 300.503; 34 CFR 300.508; 34 CFR 300.300(b)(4)

Timelines

The term ‘reasonable amount of time’ is not defined in either state or federal law. The SELPA therefore recommends that districts observe the following timelines:

1. High School Graduation - It is recommended that notice be provided to parents at least 30 calendar days prior to the date of graduation. This will allow parents ample time in the event they want to request an IEP meeting.
2. Response to Parent Requests - It is recommended that districts respond to parents within 15 calendar days of receipt of written requests.
3. district Proposals – districts must decide on a case-by-case basis when it is appropriate to notice parents regarding district proposals.
4. Response to Due Process Complaint - When responding to a due process complaint the district must respond within ten calendar days of receiving the due process complaint.

Local Procedures

Prior written notice (PWN) is one of those requirements in the law that, at first glance, appears clear cut, but is difficult to explain when it comes to actual practice. Most practitioners are well aware that parents are entitled to prior written notice (PWN) before a district takes any action relative to identification, assessment, educational placement of the student, the provision of services, etc. The question is, when is the district required to provide the prior written notice (PWN) defined in this section. Common examples are:

1. Cases where the IEP process is contentious and the district, after repeated attempts, is unable to finish writing the IEP or obtain consent for the IEP;

2. When a district receives a written request from a parent pertaining to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student, and the district intends to refuse the request (which is inadvisable, as discussed elsewhere in this manual);
3. When a district wants to initiate a proposal regarding the identification, assessment, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student;
4. When a student is graduating from school with a general diploma;
5. While it is not required by law, best practices would suggest that it would be prudent to mail a prior written notice (PWN) letter regarding a student who is completing local requirements for a certificate of completion/achievement;
6. When a district receives notice of a due process complaint, it has 10 days to respond to the issues stated in the complaint; and
7. Any time subsequent to the initial provision of special education and related service, the parent of a student revokes consent in writing for the continued provision of special education and related services.

While these examples address the most common instances when prior written notice (PWN) is required, the list is definitely not exhaustive. districts are therefore advised to use prior written notice (PWN) whenever they deem necessary, especially when there is risk of litigation.

Prior Written Notice for Assessment

Districts meet the requirement for prior written notice (PWN) for assessment by developing and presenting parents with a properly completed copy of the SELPA approved Assessment Plan and the related prior written notice (PWN), located in SEIS.

FAQ's

Who is responsible for writing this notice?

It is the responsibility of the designated special education administrative representative.

REMINDERS

- A properly developed IEP constitutes prior written notice for the IEP.
- District refusals related to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student require prior written notice.
- District proposals (other than assessment and IEP) related to the identification, assessment, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student require prior written notice.
- Prior written notice must contain all of the required elements, including a copy of the Procedural Safeguards.
- If a district receives a due process complaint and has not previously provided prior written notice regarding the issues stated in the complaint, the district must provide the parent with prior written notice within 10 days of receipt of the complaint.
- A copy of all prior written notice forms/letters must be maintained in the student's confidential file.

LOW INCIDENCE EQUIPMENT AND SERVICES

Legal Requirements

Commencing with the 1985-86 fiscal year, and for each fiscal year thereafter, funds to support specialized books, materials and equipment as required under the IEP for each student with low incidence disabilities (hearing, visually and orthopedically impaired), shall be determined by dividing the total number of students 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.

The per-student entitlement shall be multiplied by the number of students with low incidence disabilities in each SELPA to determine the total funds available for each local plan.

The superintendent shall apportion the amount determined to the SELPA for purposes of purchasing and coordinating the use of specialized books, materials and equipment.

As a condition of receiving these funds, the SELPA shall ensure that the appropriate books, materials and equipment are purchased, that the use of the equipment is coordinated as necessary and that the books, materials and equipment are reassigned to local educational agencies within the SELPA once the agency that originally received the books, materials and equipment no longer needs them.

It is the intent of the Legislature that SELPAs share unused specialized books, materials and equipment with neighboring SELPAs.

As a part of the local plan submitted pursuant to § 56205, each SELPA shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve students in isolated sites and maximizes the opportunities to serve students in the least restrictive environments (LRE).

Legal Reference

EC 56206; EC 56836.22

Local Procedures

The SELPA receives special funding each year for the purchase of books, materials and equipment for students with low incidence disabilities. Districts may request funding from the SELPA to purchase specialized books, materials and equipment for their students with low incidence disabilities. Low incidence disability means students with 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 visual perception.

Criteria Assessment

The need for specialized books, materials and equipment must be documented in an appropriate assessment completed within the past calendar year. The assessment must be conducted by persons knowledgeable of the disability. Special attention shall be given to the student's unique educational needs, including, but not limited to, skills and the need for specialized services, materials and equipment consistent with guidelines established by the CDE. (EC 56320(g)) In addition to low incidence staff, knowledgeable persons include doctors and therapists from the medical therapy unit and special evaluations provided through the Regional Center.

The personnel who assess the student shall prepare a written report, as appropriate, of the results of each assessment. The report shall address the student's need for specialized services, materials and equipment consistent with guidelines established by the CDE. (EC 56327(h))

IEP Content

The need for specialized books, materials, equipment or services must be clearly documented in the student's current IEP. Documentation may appear in one or more of the following sections in the IEP:

1. Special Factors.
2. Goals and Objectives.
3. Accommodations/Modifications to the General Education Environment
4. IEP Notes/Comments.

The IEP should identify the need for specialized books, materials and equipment in terms of the function that the item serves, not by brand name or model. For example, rather than saying that the student needs a specific communication device, the IEP might indicate that the student needs an assistive form of communication that will allow the student to express basic needs, that can be easily transported from class to class and that can accommodate up to XXX number of messages.

This type of information allows low incidence staff to experiment with various types of communication systems and devices from low tech to high tech and purchase the one that works the best. Identifying a particular piece of equipment by brand and model in the IEP can result in the purchase of a piece of equipment that proves to be ineffective for the student.

Limitations

The use of low incidence funds is limited, "for purchase, repair and inventory maintenance" for equipment, materials and specialized books used by students with low incidence disabilities. Purchases must relate to the unique educational needs resulting from a student's low incidence disability. Low incidence funds may not be used to:

1. Support staff development.
2. Purchase medical therapy units for California Children's Services.
3. Purchase medical equipment.
4. Construct or alter facilities or acquire storage units.
5. Supplant books, materials and equipment provided by other agencies.

Request Procedures

Requests for low incidence funds must be submitted to the SELPA on the appropriate SELPA form and be accompanied by a copy of the most recent assessment and/or current IEP and a completed HCOE or DNCOE requisition form.

Approval

Requests for low incidence funds will be reviewed and approved/disapproved by the SELPA Administrator. The SELPA Administrator will evaluate requests based on the requirements and limitations outlined by the CDE.

Purchase

All low incidence books, materials and equipment will be purchased and maintained by the SELPA.

Local Forms

Low Incident Equipment Request form (available on the SEIS website- Reference Materials)
Low Incidence Policy. APPENDIX J

FAQs

Can low incidence funds be used to purchase a computer for the classroom?

Probably not, low incidence funds may only be used for one student and must be used for a specialized piece of equipment. A computer, unless there is something unique and specialized about it, is a generic piece of equipment found in most classrooms.

Who can decide that a student needs low incidence books, materials or equipment?

The determination must be made by a person knowledgeable about the disability, preferably a properly credentialed low incidence teacher employed by SELPA and/or the COE.

REMINDERS

- Low incidence funds may only be used for low incidence students – hearing, visually, or orthopedically impaired.
- Low incidence funds may only be used to purchase specialized books, materials or equipment.
- The need for low incidence books, materials or equipment must be documented in an assessment and/or IEP.
- Low incidence books, materials and equipment must be documented in terms of needs – not brand names or models.
- Low incidence books, materials and equipment must be requested by an appropriately credentialed low incidence teacher.

OVER-IDENTIFICATION AND DISPROPORTIONALITY

Local Procedures

It shall be the policy of District/Local Education Agencies (LEA) to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.

The Humboldt-Del Norte SELPA and its member Local Educational Agencies (“LEAs”) have a policy of preventing inappropriate disproportionate representation by race and ethnicity of students with disabilities in identification, eligibility, placement, and disciplinary actions. The LEAs of the Humboldt-Del Norte SELPA will implement procedures designed to prevent the inappropriate over-identification and representation by race and ethnicity of students with disabilities, including, but not limited to a more extensive scan for instances of disproportionality, more extensive remedies where findings of disproportionality occur, and a focus on the development of personnel preparation models.

The Humboldt-Del Norte SELPA and its member LEAs are strongly committed to maintaining high expectations for all of their students, and to eliminating disparities in achievement, performance, and social-emotional adjustment among subgroups based on race, ethnicity, language, national origin, gender, sexual orientation, gender identity, gender expression, socio-economic status, or disability.

Under the IDEA, the CDE is responsible for collecting and examining data to determine if significant disproportionalities or significant discrepancies are occurring in LEAs in the State. The CDE must look at data related to the over representation of students by race and ethnicity with respect to:

1. Identification as children with disabilities;
2. Identification in various disability categories;
3. Placement in educational settings; and
4. Disciplinary actions including suspension and expulsion.

(34 C.F.R. § 300.646). The CDE is required to annually identify LEAs that have a significant discrepancy in the suspension/expulsion (Indicator 4) and LEAs that have a disproportionate representation and eligibility (Indicators 9 and 10). (20 U.S.C. § 1418(d)); 34 C.F.R. § 300.646(a)).

Disproportionality is the inappropriate over-representation or over-identification of racial or ethnic subgroups in special education. Disproportionality exists if an LEA has a significant discrepancy and/or disproportionate representation of a specific race or ethnicity in relationship to the overall general education and special education populations of the LEA and the State. An LEA can be considered “disproportionate” based on one year of data, and can be considered to have a “significant disproportionality” based on three consecutive years of data. (34 C.F.R. § 300.647). The term “significant discrepancy” is associated with suspensions and expulsions only, and is based on one year of data with regard to incidence of discipline, duration of discipline, and type of disciplinary action. (34 C.F.R. § 300.646(a)(3)).

The CDE must calculate significant disproportionality using a standard method established in 34 C.F.R. § 300.647. The CDE must compare discipline data. Additionally, if CDE finds an LEA to have a significant discrepancy and/or disproportionate representation, the State is required to monitor and ensure that district policies, procedures, and practices are compliant, do not lead to inappropriate identification, and comply with requirements relating to the development and implementation of IEPs,

the use of positive behavioral interventions and supports, and procedural safeguards. (34 C.F.R. § 300.600(d)). This is done through a self-review process.

It is the policy of the Humboldt-Del Norte SELPA to encourage its member LEAs to work to avoid inappropriate disproportionate representation by race and ethnicity of students with disabilities in identification, eligibility, placement, and disciplinary actions. Member LEAs are encouraged to monitor special education student count data relative to identification rates by race and ethnicity; monitor LEA Annual Performance Plan data relative to equitable identification rates by race and ethnicity; use a Student Study Team or like process to consider the effects of environmental and cultural factors, as well as other limiting factors, relative to students' academic performance; implement regular education interventions prior to a referral for a special education assessment; evaluate the interventions applied in regular education for a period of time prior to a referral for a special education assessment; and review LEA policies and procedures that could be contributing the disproportionate representation.

If a member LEA is considered to be in significant disproportionality, it will need to select one or more areas of focus to address the significant disproportionality. The areas of focus identified by the CDE are closing the achievement gap; culturally responsive school environments; positive behavior interventions and supports; using a multi-tiered system of supports; and/or access to, and achieving in, the least restrictive environment. The Humboldt-Del Norte SELPA encourages all member LEAs that have disproportionate representation to review and address those areas of focus as needed

The Humboldt-Del Norte SELPA recognizes that the overrepresentation of certain minority students in special education and in the disciplinary system is a nationwide problem and that multiple factors contribute to disparities in academic achievement, socio-emotional adjustment and behavior between student sub groups. The causes of disproportionality are complex and cross many social systems and the district recognizes that inappropriate identification and placement of students in special education can have long-term deleterious effects. The Humboldt-Del Norte SELPA is committed to examining the root causes of disproportionality to ensure that race, ethnicity, gender and socio-economic status are not predictors of which students will be referred for special education services or to the disciplinary system, and partnering with the appropriate agencies to correct these persistent patterns. The Humboldt-Del Norte SELPA encourages its member LEAs to take similar actions, and to create a culturally competent staff, maintain uniformly high expectations for all, promoting rigorous curricula, differentiate instruction, and maximize access for all students to high-level educational opportunities.

Legal Reference

EC 56205(a); 20 USC 1412(a); CFR 300.173

DUE PROCESS PROCEDURES

Definition

Due process is appropriate for matters concerning the identification, evaluation, placement, or provision of free appropriate public education (FAPE) to a student with a disability. This process is separate from the state complaint procedures, which allow parents to file an administrative complaint directly with the CDE, which investigates and rules on the claim.

Legal Requirements

Federal:

34 C.F.R. § 300.507—Filing a due process complaint.

(a) General. (1) A parent or a public agency may file a due process complaint on any of the matters described in § 300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child). (2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in § 300.511(f) apply to the timeline in this section.

(b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if—(1) The parent requests the information; or (2) The parent or the agency files a due process complaint under this section.

34 C.F.R. § 300.508—Due process complaint.

(a) General. (1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).

(2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.

(b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include—(1) The name of the child; (2) The address of the residence of the child; (3) The name of the school the child is attending; (4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney–Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)), available contact information for the child, and the name of the school the child is attending; (5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and (6) A proposed resolution of the problem to the extent known and available to the party at the time.

(c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.

(d) Sufficiency of complaint. (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes

the due process complaint does not meet the requirements in paragraph (b) of this section. (2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination. (3) A party may amend its due process complaint only if—(i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to § 300.510; or (ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins. (4) If a party files an amended due process complaint, the timelines for the resolution meeting in § 300.510(a) and the time period to resolve in § 300.510(b) begin again with the filing of the amended due process complaint.

(e) LEA response to a due process complaint. (1) If the LEA has not sent a prior written notice under § 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes—(i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IEP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency's proposed or refused action. (2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate.

(f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

34 C.F.R. § 300.510—Resolution process.

(a) Resolution meeting. (1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under § 300.511, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that— (i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint. (3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if—(i) The parent and the LEA agree in writing to waive the meeting; or (ii) The parent and the LEA agree to use the mediation process described in § 300.506. (4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.

(b) Resolution period. (1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. (2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under § 300.515 begins at the expiration of this 30-day period. (3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting

will delay the timelines for the resolution process and due process hearing until the meeting is held. (4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in § 300.322(d)), the LEA may, at the conclusion of the 30–day period, request that a hearing officer dismiss the parent's due process complaint. (5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

(c) Adjustments to 30–day resolution period. The 45–day timeline for the due process hearing in § 300.515(a) starts the day after one of the following events: (1) Both parties agree in writing to waive the resolution meeting; (2) After either the mediation or resolution meeting starts but before the end of the 30–day period, the parties agree in writing that no agreement is possible; (3) If both parties agree in writing to continue the mediation at the end of the 30–day resolution period, but later, the parent or public agency withdraws from the mediation process.

(d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is— (1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and (2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements, pursuant to § 300.537.

(e) Agreement review period. If the parties execute an agreement pursuant to paragraph (d) of this section, a party may void the agreement within 3 business days of the agreement's execution.

34 C.F.R. § 300.511—Impartial due process hearing.

(a) General. Whenever a due process complaint is received under § 300.507 or § 300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§ 300.507, 300.508, and 300.510.

(b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

(c) Impartial hearing officer. (1) At a minimum, a hearing officer—(i) Must not be—(A) An employee of the SEA or the LEA that is involved in the education or care of the child; or (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts; (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. (3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under § 300.508(b), unless the other party agrees otherwise.

(e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.

(f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to— (1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.

34 C.F.R. § 300.512—Hearing rights.

(a) General. Any party to a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534, or an appeal conducted pursuant to § 300.514, has the right to— (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under State law; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing; (4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to § 300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. (2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(c) Parental rights at hearings. Parents involved in hearings must be given the right to—(1) Have the child who is the subject of the hearing present; (2) Open the hearing to the public; and (3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.

34 C.F.R. § 300.513—Hearing decisions.

(a) Decision of hearing officer on the provision of FAPE. (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantive grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies—(i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. (3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under §§ 300.500 through 300.536.

(b) Construction clause. Nothing in §§ 300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under § 300.514(b), if a State level appeal is available.

(c) Separate request for a due process hearing. Nothing in §§ 300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

(d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must—(1) Transmit the findings and decisions referred to in § 300.512(a)(5) to the State advisory panel established under § 300.167; and (2) Make those findings and decisions available to the public.

34 C.F.R. § 300.514—Finality of decision; appeal; impartial review.

(a) Finality of hearing decision. A decision made in a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and § 300.516.

(b) Appeal of decisions; impartial review. (1) If the hearing required by § 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must—(i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in § 300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.

(c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must— (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under § 300.167; and (2) Make those findings and decisions available to the public.

(d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under § 300.516.

34 C.F.R. § 300.515—Timelines and convenience of hearings and reviews.

(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under § 300.510(b), or the adjusted time periods described in § 300.510(c)— (1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties.

(b) The SEA must ensure that not later than 30 days after the receipt of a request for a review— (1) A final decision is reached in the review; and (2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

34 C.F.R. § 300.516—Civil action.

(a) General. Any party aggrieved by the findings and decision made under §§ 300.507 through 300.513 or §§ 300.530 through 300.534 who does not have the right to an appeal under § 300.514(b), and any party aggrieved by the findings and decision under § 300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under § 300.507 or §§ 300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(b) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law.

(c) Additional requirements. In any action brought under paragraph (a) of this section, the court— (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

(d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.

(e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§ 300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

34 C.F.R. § 300.517—Attorneys' fees.

(a) In general. (1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to—(i) The prevailing party who is the parent of a child with a disability; (ii) To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation. (2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

(b) Prohibition on use of funds. (1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpart E of this part.

(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act.

(c) Award of fees. A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following: (1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph. (2)(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if—(A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins; (B) The offer is not accepted within 10 days; and (C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. (ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in § 300.506. (iii) A meeting conducted pursuant to § 300.510 shall not be considered—(A) A meeting convened as a result of an administrative hearing or judicial action; or (B) An administrative hearing or judicial action for purposes of this section (3) Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. (4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that—(i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; (ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with § 300.508. (5) The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act.

34 C.F.R. § 300.518—Child's status during proceedings.

(a) Except as provided in § 300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under § 300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under § 300.300(b),

then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.

(d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section.

State:

§ 56500.3. Dispute resolution; mediation

(a) It is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation prior to filing a request for a due process hearing. It is also the intent of the Legislature that these voluntary prehearing request mediation conferences be an informal process conducted in a non-adversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services may not attend or otherwise participate in the prehearing request mediation conferences.

(b) This part does not preclude the parent or the public agency from being accompanied and advised by nonattorney representatives in the mediation conferences and consulting with an attorney prior to or following a mediation conference. For purposes of this section, "attorney" means an active, practicing member of the State Bar of California or another independent contractor used to provide legal advocacy services, but does not mean a parent of the pupil who is also an attorney.

(c) Requesting or participating in a mediation conference is not a prerequisite to requesting a due process hearing.

(d) All requests for a mediation conference shall be filed with the Superintendent. The party initiating a mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed with the Superintendent. The mediation conference shall be conducted by a person knowledgeable in the process of reconciling differences in a non-adversarial manner and under contract with the department pursuant to Section 56504.5. The mediator shall be knowledgeable in the laws and regulations governing special education.

(e) The prehearing mediation conference shall be scheduled within 15 days of receipt by the Superintendent of the request for mediation. The mediation conference shall be completed within 30 days after receipt of the request for mediation unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation. Pursuant to Section 300.506(b)(4) of Title 34 of the Code of Federal Regulations, and to encourage the use of mediation, the state shall bear the cost of the mediation process, including any meetings described in Section 300.506(b)(2) of Title 34 of the Code of Federal Regulations. The costs of mediation shall be included in the contract described in Section 56504.5.

(f) In accordance with Section 1415(e)(2)(F) of Title 20 of the United States Code, if a resolution is reached that resolves the due process issue through the mediation process, the parties shall execute a legally binding written agreement that sets forth the resolution and that does the following: (1) States that all discussions that occurred during the mediation process shall be confidential and may not be

used as evidence in any subsequent due process hearing or civil proceeding. (2) Is signed by both the parent and the representative of the public agency who has the authority to bind the agency. (3) Is enforceable in any state court of competent jurisdiction or in a federal district court of the United States.

(g) If the mediation conference fails to resolve the issues to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a state-level hearing pursuant to Section 56505. The mediator may assist the parties in specifying any unresolved issues to be included in the hearing request.

(h) Any mediation conference held pursuant to this section shall be scheduled in a timely manner and shall be held at a time and place reasonably convenient to the parties to the dispute in accordance with Section 300.506(b)(5) of Title 34 of the Code of Federal Regulations.

(i) The mediation conference shall be conducted in accordance with regulations adopted by the board.

(j)(1) Notwithstanding any procedure set forth in this chapter, a public agency and a parent, if the party initiating the mediation conference so chooses, may meet informally to resolve any issue or issues to the satisfaction of both parties prior to the mediation conference. (2) In accordance with Section 300.506(b)(2) of Title 34 of the Code of Federal Regulations, a public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party as follows: (A) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the state established under Section 1471 or Section 1472 of Title 20 of the United States Code. (B) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(k) The procedures and rights contained in this section shall be included in the notice of parent rights attached to the assessment plan of the pupil pursuant to Section 56321.

§ 56500.6. Due process and state complaint procedures for children enrolled in private schools
Due process and state complaint procedures for children enrolled in private schools by their parents pursuant to Sections 56170 to 56174.5, inclusive, shall be in accordance with Section 300.140 of Title 34 of the Code of Federal Regulations.

§ 56501. Due process hearing; procedures; initiation

(a) The due process hearing procedures prescribed by this chapter extend to the parent or guardian, as defined in Section 56028, a pupil who has been emancipated, and a pupil who is a ward or dependent of the court or for whom no parent or guardian can be identified or located when the hearing officer determines that either the local educational agency has failed to appoint a surrogate parent as required by Section 7579.5 of the Government Code or the surrogate parent appointed by the local educational agency does not meet the criteria set forth in subdivision (f) of Section 7579.5 of the Government Code, and the public agency involved in any decisions regarding a pupil. The appointment of a surrogate parent after a hearing has been requested by the pupil shall not be cause for dismissal of the hearing request. The parent or guardian and the public agency involved may initiate the due process hearing procedures prescribed by this chapter under any of the following circumstances: (1) There is a proposal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free appropriate public education to the child. (2) There is a refusal to initiate or change the identification, assessment, or educational placement of the child or the provision of a free

appropriate public education to the child. (3) The parent or guardian refuses to consent to an assessment of the child. (4) There is a disagreement between a parent or guardian and a local educational agency regarding the availability of a program appropriate for the child, including the question of financial responsibility, as specified in Section 300.148 of Title 34 of the Code of Federal Regulations.

(b) The due process hearing rights prescribed by this chapter include, but are not limited to, all of the following: (1) The right to a mediation conference pursuant to Section 56500.3. (2) 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 under this part, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). Notwithstanding subdivision (a) of Section 56500.3, attorneys and advocates are permitted to participate in mediation conferences scheduled after the filing of a request for due process hearing. (3) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27. (4) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

(c) In addition to the rights prescribed by subdivision (b), the parent or guardian has the following rights: (1) The right to have the pupil who is the subject of the state hearing present at the hearing. (2) The right to open the state hearing to the public.

§ 56501.5. Resolution session; commencement of time limit; parent failure to participate in hearing; agreements

(a) Notwithstanding any other provision of law, prior to the opportunity for an impartial due process hearing under this chapter, the local educational agency shall convene a resolution meeting with the parents and the relevant member or members of the individualized education program team who have specific knowledge of the facts identified in the due process hearing request, in accordance with Section 1415(f)(1)(B) of Title 20 of the United States Code and Section 300.510 of Title 34 of the Code of Federal Regulations. The parent and the local educational agency shall determine the relevant members of the individualized education program team to attend the meeting. (1) The meeting shall be convened within 15 days of receiving notice of the due process hearing request of the parent. (2) The meeting shall include a representative of the local educational agency who has decision making authority on behalf of the agency. (3) The meeting shall not include an attorney of the local educational agency, unless the parent is accompanied by an attorney. (4) The purpose of the meeting is for the parent of the child to discuss the due process hearing issue, and the facts that form the basis of the due process hearing request, so that the local educational agency has the opportunity to resolve the dispute that is the basis for the due process hearing request.

(b) The resolution meeting described in subdivision (a) need not be held if the parents and the local educational agency agree in writing to waive the meeting, or agree to use the mediation process as provided for in this chapter.

(c) If the local educational agency has not resolved the due process hearing issue to the satisfaction of the parents within 30 days of the receipt of the due process hearing request notice, the due process hearing may occur. Except as provided in subdivision (d), the timeline for issuing a final decision under paragraph (3) of subdivision (f) of Section 56505 begins at the expiration of this 30-day period.

(d) The 45-day timeline for the due process hearing cited in paragraph (3) of subdivision (f) of Section 56505 starts the day after one of the following events, provided the local educational agency also affords notice of these events to the agency or contractor providing due process hearings pursuant to Section 56504.5: (1) Both parties agree in writing to waive the resolution meeting. (2) After either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible. (3) If both parties agree in writing to continue a mediation that started before the end of the 30-day resolution period to a date after the 30-day resolution period, but later, the parent or local educational agency withdraws from the mediation process.

(e) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding subdivision (c), the failure of the parent filing a due process hearing request to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. (1) If the local educational agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented using the procedures in Section 300.322(d) of Title 34 of the Code of Federal Regulations, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parent and any responses received, and detailed records of visits made to the home or place of employment of the parent, the local educational agency may, at the conclusion of the 30-day period, request that a hearing officer dismiss the due process hearing request of the parent. (2) If the local educational agency fails to hold the resolution meeting specified in subdivision (a) within 15 days of receiving notice of a due process hearing request of a parent or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

(f) In the case that a resolution is reached to resolve the due process hearing issue at a meeting described in subdivision (a), the parties shall execute a legally binding agreement that is both of the following: (1) Signed by both the parent and a representative of the local educational agency who has the authority to bind the agency. (2) Enforceable in a state court of competent jurisdiction or in a federal district court of the United States.

(g) If the parties execute an agreement pursuant to subdivision (d), a party may void the agreement within three business days of the execution of the agreement.

§ 56502. Request for due process hearing; procedural requirements and timelines

(a) All requests for a due process hearing shall be filed with the Superintendent in accordance with Section 300.508(a) and (b) of Title 34 of the Code of Federal Regulations.

(b) The Superintendent shall develop a model form to assist parents and guardians in filing a request for due process that is in accordance with Section 300.509 of Title 34 of the Code of Federal Regulations.

(c)(1) The party, or the attorney representing the party, initiating a due process hearing by filing a written request with the Superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the Superintendent. The due process hearing request notice shall remain confidential. In accordance with Section 1415(b)(7)(A) of Title 20 of the United States Code, the request shall include the following: (A) The name of the child, the address of the residence of the child, or available contact information in the case of a homeless child, and the name of

the school the child is attending. (B) In the case of a homeless child or youth within the meaning of paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a (2)), available contact information for the child and the name of the school the child is attending. (C) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem. (D) A proposed resolution of the problem to the extent known and available to the party at the time. (2) A party may not have a due process hearing until the party, or the attorney representing the party, files a request that meets the requirements listed in this subdivision.

(d)(1) The due process hearing request notice required by Section 1415(b)(7)(A) of Title 20 of the United States Code shall be deemed to be sufficient unless the party receiving the notice notifies the due process hearing officer and the other party in writing that the receiving party believes the due process hearing request notice has not met the notice requirements. The party providing a hearing officer notification shall provide the notification within 15 days of receiving the due process hearing request notice. Within five days of receipt of the notification, the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of Section 1415(b)(7)(A) of Title 20 of the United States Code, and shall immediately notify the parties in writing of the determination. (2)(A) The response to the due process hearing request notice shall be made within 10 days of receiving the request notice in accordance with Section 1415(c)(2)(B) of Title 20 of the United States Code. (B) In accordance with Section 300.508(e)(1) of Title 34 of the Code of Federal Regulations, if the local educational agency has not sent a prior written notice under Section 56500.4 and Section 300.503 of Title 34 of the Code of Federal Regulations to the parent regarding the subject matter contained in the due process hearing request of the parent, the response from the local educational agency to the parent shall include all of the following: (i) An explanation of why the agency proposed or refused to take the action raised in the due process hearing request. (ii) A description of other options that the individualized education program team considered and the reasons why those options were rejected. (iii) A description of each assessment procedure, assessment, record, or report the agency used as the basis for the proposed or refused action. (iv) A description of other factors that are relevant to the proposed or refused action of the agency. (C) A response by a local educational agency under subparagraph (B) shall not be construed to preclude the local educational agency from asserting that the due process request of the parent was insufficient, where appropriate. (D) Except as provided under subparagraph (B), the party receiving a due process hearing request notice, within 10 days of receiving the notice, shall send to the other party, in accordance with Section 300.508(f) of Title 34 of the Code of Federal Regulations, a response that specifically addresses the issues raised in the due process hearing request notice.

(e) A party may amend a due process hearing request notice only if the other party consents in writing to the amendment and is given the opportunity to resolve the hearing issue through a meeting held pursuant to Section 1415(f)(1)(B) of Title 20 of the United States Code, or the due process hearing officer grants permission, except that the hearing officer may only grant permission at any time not later than five days before a due process hearing occurs. The applicable timeline for a due process hearing under this chapter shall recommence at the time the party files an amended notice, including the timeline under Section 1415(f)(1)(B) of Title 20 of the United States Code.

(f) The Superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and

a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(g) Notwithstanding any procedure set forth in this chapter, a public agency and a parent or guardian, if the party initiating the hearing so chooses, may meet informally to resolve an issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public agency or his or her designee. A designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(h) Upon receipt by the Superintendent of a written request by the parent or guardian or public agency, the Superintendent or his or her designee or designees immediately shall notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The Superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The Superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

(i) In accordance with Section 1415(f)(3)(B) of Title 20 of the United States Code, the party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under this section, unless the other party agrees otherwise.

§ 56503. Dispute resolution; availability of mediation

Nothing in this chapter shall preclude the parties to a hearing from agreeing to use a mediation conference or resolving their dispute in an informal, non-adversarial manner, even though a request for a state level hearing has been filed or even if the hearing has commenced.

§ 56504.5. Agreements or contracts to conduct mediation conferences and due process hearings; conduct of mediation or due process hearings; regulatory standards; collection and provision of data; reports

(a) The department shall enter into an interagency agreement with another state agency or contract with a nonprofit organization or entity to conduct mediation conferences and due process hearings in accordance with Sections 300.506 and 300.511 of Title 34 of the Code of Federal Regulations.

(b) The agency or contractor shall provide hearings and mediations in a manner that is consistent with all applicable federal and state laws and regulations, and any other applicable legal authorities.

(c) The Superintendent shall adopt regulations that establish standards for all of the following components of an interagency agreement or contract entered into pursuant to subdivision (a): (1) The training and qualifications for mediators and hearing officers. (2) The availability of translators and translated documents. (3) Prevention of conflicts of interest for mediators and hearing officers. (4) The supervision of mediators and hearing officers. (5) Monitoring, tracking, and management of cases. (6) The process for conducting mediations and due process hearings. (7) Communication with parties to mediations and due process hearings. (8) The establishment of a committee to advise the

agency or contractor with regard to conducting mediations and due process hearings. (9) The contents of a manual to describe the procedures of the mediation and due process hearing.

(d)(1) An agency or contractor shall collect and provide data in standardized formats, which allow the department to manage and report on all mediation and due process activities in the state. An agency or contractor shall propose the manner in which specific data and information will be collected and transmitted electronically and in writing to the department on a quarterly basis. The reports shall contain data to provide the state with information to comply with federal and state regulations for monitoring local programs. An agency or contractor shall identify applicable data to be collected, analyzed, and formatted including, but not limited to, caseloads, status of cases, and outcomes for mediations and due process hearings. (2) The agency or contractor shall, on a quarterly basis, provide the department with information that includes, but is not limited to, all of the following: (A) Formal complaints: (i) number of complaints; (ii) number of complaints with findings; (iii) number of complaints with no findings; (iv) number of complaints not investigated, withdrawn, or no jurisdiction; (v) number of complaints completed or addressed within timelines; and (vi) number of complaints pending. (B) Mediations: (i) number of mediations not related to hearing requests; (ii) number of mediations related to hearing requests; (iii) number of mediation agreements not related to hearing requests; (iv) number of mediation agreements related to hearing requests; and (v) number of mediations pending. (C) Due process hearings: (i) number of hearing requests; (ii) number of hearings held; (iii) number of decisions issued after timelines and extension expired; (iv) number of hearings pending; and (v) number of expedited hearings. (3) The agency or contractor shall submit hard copies of hearing decision reports to the department and shall administer and upload all redacted reports on a quarterly basis to the hearing decision database of the department. The agency or contractor shall have the ability to provide the department with the costs of hearings and mediations on both an aggregate and individual basis.

§ 56505. State hearing

(a) The state hearing shall be conducted in accordance with regulations adopted by the board.

(b) The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.

(c)(1) The hearing shall be conducted by a person who, at a minimum, shall possess knowledge of, and the ability to understand, the provisions of this part and related state statutes and implementing regulations, the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), federal regulations pertaining to the act, and legal interpretations of this part and the federal law by federal and state courts, and who has satisfactorily completed training pursuant to this subdivision. The Superintendent shall establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions are accurate. (2) The hearing officer shall possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice. (3) The hearing officer shall possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (4) A due process hearing shall not be conducted by an individual listed in Section 1415(f)(3)(A)(i) of Title 20 of the United States Code. Pursuant to Section 300.511(c)(2) of Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to Section 300.518(a) of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state-level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.533 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school, with the consent of his or her parent or guardian, shall be placed in the public school program until all proceedings have been completed. As provided in Section 300.518(d) of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the parent or guardian of the pupil that a change of placement is appropriate, that placement shall be treated as an agreement between the state or local educational agency and the parent or guardian. In accordance with Section 300.518(c) of Title 34 of the Code of Federal Regulations, if a due process hearing request involves an application for initial services from a child who is transitioning from an early education program under Chapter 4.4 (commencing with Section 56425) to a special education program serving individuals with exceptional needs between the ages of three to five years, inclusive, under Chapter 4.45 (commencing with Section 56440), and is no longer eligible for early education services because the child has turned three years of age, the local educational agency is not required to provide early education services that the child had been receiving. If the child is found eligible for special education and related services for children age three years of age and older, and the parent or guardian consents to the initial provision of special education and related services under Section 300.300(b) of Title 34 of the Code of Federal Regulations, the local educational agency shall provide those special education and related services that are not in dispute between the parent or guardian and the local educational agency.

(e) A party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations: (1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs. (2) The right to present evidence, written arguments, and oral arguments. (3) The right to confront, cross-examine, and compel the attendance of, witnesses. (4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing. (5) The right to written, or, at the option of the parent or guardian, electronic findings of fact and decisions. The record of the hearing and the findings of fact and decisions shall be provided at no cost to parents or guardians in accordance with Section 300.512(c)(3) of Title 34 of the Code of Federal Regulations. The findings and decisions shall be made available to the public after any personally identifiable information has been deleted consistent with the confidentiality requirements of Section 1417(c) of Title 20 of the United States Code and shall also be transmitted to the Advisory Commission on Special Education pursuant to Section 1415(h)(4) of Title 20 of the United States Code. (6) The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues. Upon the request of a parent who is not represented by an attorney, the agency responsible for conducting hearings shall provide a mediator to assist the parent in identifying the issues and the proposed resolution of the issues. (7) The right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing. Included in the material to be disclosed to all parties at least five business days prior to a hearing shall be all assessments completed by that date and recommendations based on the assessments that the parties intend to use at the hearing. (8) The right, pursuant to Section 300.512(a)(3) of Title 34 of the Code of Federal Regulations, to prohibit the

introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f)(1) In accordance with Section 1415(f)(3)(E) of Title 20 of the United States Code, the decision of a due process hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education. (2) In matters alleging a procedural violation, a due process hearing officer may find that a child did not receive a free appropriate public education only if the procedural violation did any of the following: (A) Impeded the right of the child to a free appropriate public education. (B) Significantly impeded the opportunity of the parents to participate in the decision making process regarding the provision of a free appropriate public education to the child of the parents. (C) Caused a deprivation of educational benefits. (3) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision, including the reasons for a nonpublic, nonsectarian school placement, the provision of nonpublic, nonsectarian agency services, or the reimbursement for the placement or services, taking into account the requirements of subdivision (a) of Section 56365, shall be mailed to all parties to the hearing not later than 45 days after the expiration of the 30-day period pursuant to subdivision (c) of Section 56501.5. Either party to the hearing may request the hearing officer to grant an extension. The extension shall be granted upon a showing of good cause. An extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension. (4) This subdivision does not preclude a due process hearing officer from ordering a local educational agency to comply with procedural requirements under this chapter.

(g) Subdivision (f) does not alter the burden of proof required in a due process hearing, or prevent a hearing officer from ordering a compensatory remedy for an individual with exceptional needs.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) In a hearing conducted pursuant to this section, the hearing officer shall not base a decision solely on nonsubstantive procedural errors, unless the hearing officer finds that the nonsubstantive procedural errors resulted in the loss of an educational opportunity to the pupil or interfered with the opportunity of the parent or guardian of the pupil to participate in the formulation process of the individualized education program.

(k) This chapter does not preclude a party aggrieved by the findings and decisions in a hearing under this section from exercising the right to appeal the decision to a state court of competent jurisdiction. An aggrieved party also may exercise the right to bring a civil action in a district court of the United States without regard to the amount in controversy, pursuant to Section 300.516 of Title 34 of the Code of Federal Regulations. An appeal shall be made within 90 days of receipt of the hearing decision. During the pendency of an administrative or judicial proceeding conducted pursuant to Chapter 5 (commencing with Section 56500), the child involved in the hearing shall remain in his or her present educational placement, unless the public agency and the parent or guardian of the child agree otherwise. An action brought under this subdivision shall adhere to Section 300.516(c) of Title 34 of the Code of Federal Regulations.

(l) A request for a due process hearing arising under subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. In accordance with Section 1415(f)(3)(D) of Title 20 of the United States Code, the time period specified in this subdivision does not apply to a parent if the parent was prevented from requesting the due process hearing due to either of the following: (1) Specific misrepresentations by the local educational agency that it had solved the problem forming the basis of the due process hearing request. (2) The withholding of information by the local educational agency from the parent that was required under this part to be provided to the parent.

(m) Pursuant to Section 300.511(c) of Title 34 of the Code of Federal Regulations, each public agency shall keep a list of the persons who serve as due process hearing officers, in accordance with Section 56504.5, and the list shall include a statement of the qualifications of each of those persons. The list of hearing officers shall be provided to the public agencies by the organization or entity under contract with the department to conduct due process hearings.

(n) A party who filed for a due process hearing prior to the effective date of this section is not bound by the two-year statute of limitations time period in subdivision (l) if the party filed a request within the three-year statute of limitations provision pursuant to subdivision (l) as it read prior to October 9, 2006.

(o) This section shall become operative October 9, 2006.

§ 56505.1. State hearing; authority of hearing officer

The hearing officer may do any of the following during the hearing:

(a) Question a witness on the record prior to any of the parties doing so.

(b) With the consent of both parties to the hearing, request that conflicting experts discuss an issue or issues with each other while on the record.

(c) Visit the proposed placement site or sites when the physical attributes of the site or sites are at issue.

(d) Call a witness to testify at the hearing if all parties to the hearing consent to the witness giving testimony or the hearing is continued for at least five days after the witness is identified and before the witness testifies.

(e) Order that an impartial assessment, including an independent educational assessment, of the pupil be conducted for purposes of the hearing and continue the hearing until the assessment has been completed. The cost of any assessment ordered under this subdivision shall be at public expense pursuant to subsection (d) of Section 300.502 of Title 34 of the Code of Federal Regulations and included in the contract between the department and the organization or entity conducting the hearing.

(f) Bar introduction of any documents or the testimony of any witnesses not disclosed to the hearing officer at least five business days prior to the hearing and bar introduction of any documents or the testimony of any witnesses at the hearing without the consent of the other party not disclosed to the parties at least five business days prior to the hearing pursuant to paragraph (7) of subdivision (e) of Section 56505.

(g) In decisions relating to the provision of related services by other public agencies, the hearing officer may call as witnesses independent medical specialists qualified to present evidence in the area of the

pupil's medical disability. The cost for any witness called to testify under this subdivision shall be included in the contract between the department and the organization or entity conducting the hearing.

(h) Set a reasonable limit on the length of the hearing after consideration of all of the following: (1) The issues to be heard. (2) The complexity of the facts to be proven. (3) The ability of the parties and their representatives, if any, to present their respective cases. (4) The estimate of the parties as to the time needed to present their respective cases.

§ 56505.2. Placement in or services provided by a nonpublic, nonsectarian school; restrictions upon placement; considerations

(a) A hearing officer may not render a decision that results in the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or that results in a service for an individual with exceptional needs provided by a nonpublic, nonsectarian agency, if the school or agency has not been certified pursuant to Section 56366.1.

(b) A hearing officer shall consider Sections 56365, 56366, and 56366.1 during a due process hearing concerning an issue of placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or services for an individual with exceptional needs provided by a nonpublic, nonsectarian agency.

§ 56507. Due process hearing; notice of intent to be represented by attorney; award of attorney's fees; contents of decision

(a) If either party to a due process hearing intends to be represented by an attorney in the state hearing, notice of that intent shall be given to the other party at least 10 days prior to the hearing. The failure to provide that notice shall constitute good cause for a continuance.

(b)(1) An award of reasonable attorney's fees to the prevailing parent, guardian, or pupil, as the case may be, may only be made either with the agreement of the parties following the conclusion of the administrative hearing process or by a court of competent jurisdiction pursuant to Section 1415(i)(3) of Title 20 of the United States Code. (2) In accordance with Section 1415(i)(3) of Title 20 of the United States Code, the court, in its discretion, may award reasonable attorney's fees as part of the costs to a prevailing party who is a state educational agency or local educational agency in the following circumstances: (A) Against the attorney of a parent who files a due process hearing request or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation. (B) Against the attorney of a parent, or against the parent, if the parent's due process hearing request or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(c) Public agencies shall not use federal funds distributed under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other federal special education funds, for the agency's own legal counsel or other advocacy costs, that may include, but are not limited to, a private attorney or employee of an attorney, legal paraprofessional, or other paid advocate, related to a due process hearing or the appeal of a hearing decision to the courts. Funds shall not be used to reimburse parents who prevail and are awarded attorney's fees, pursuant to subdivision (b), as part of the judgment. Nothing in this subdivision shall preclude public agencies from using these funds for attorney services related to the establishment of policy and programs, or responsibilities, under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and the program

administration of these programs. This subdivision does not apply to attorneys and others hired under contract to conduct administrative hearings pursuant to subdivision (a) of Section 56505.

(d) The hearing decision shall indicate the extent to which each party has prevailed on each issue heard and decided, including issues involving other public agencies named as parties to the hearing.

§ 56508. Dispute resolution; training materials and workshops on alternative nonadversarial methods
It is the intent of the Legislature that the department develop training materials that can be used locally by parents, public agencies, and others and conduct workshops on alternative resolutions for resolving differences in a nonadversarial atmosphere with the mutual goal of providing a free appropriate public education for children and youth with disabilities.

§ 56509. Separate due process hearing request
This chapter, in accordance with subsection (o) of Section 1415 of Title 20 of the United States Code, does not preclude a parent from filing a separate due process hearing request on an issue separate from a due process hearing request already filed.

§ 56329. Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements.

(c) The public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) 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 assessment, but not at public expense.

If the parent or guardian obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding the child. 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.

§ 56346. Informed consent of parents before provision of special education and related services to child; failure to provide consent in whole or part; revocation of consent; due process hearing
(b) If the parent of the child fails to respond or refuses to consent to the initiation of services pursuant to subdivision (a), the public agency shall not provide special education and related services to the child by utilizing the procedures in Section 1415 of Title 20 of the United States Code or the procedures in subdivision (e) of Section 56506 in order to obtain agreement or a ruling that the services may be provided to the child.

(c) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide the consent, both of the following are applicable: (1) The public agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the public agency requests consent. (2) The public

agency shall not be required to convene an individualized education program team meeting or develop an individualized education program under this part for the child for the special education and related services for which the public agency requests consent.

(d)(1) Pursuant to Section 300.300(b)(4) of Title 34 of the Code of Federal Regulations, if the parent or guardian of a child submits a written revocation of his or her consent pursuant to this section at any time subsequent to the initial provision of special education and related services to the child, the public agency shall not do either of the following: (A) Continue to provide special education and related services to the child, but shall provide prior written notice to the child's parent or guardian in accordance with Section 56500.4 before ceasing the provision of the special education and related services. (B) Use the procedural safeguards specified in Chapter 5 (commencing with Section 56500), including mediation and the due process complaint procedures, to obtain agreement or a ruling that the services may be provided to the child.

(f) With the exception of a parent of a child who fails to respond pursuant to subdivision (b), or refuses to consent to services pursuant to subdivision (b), if the public agency determines that the proposed special education program component to which the parent does not consent is necessary to provide a free appropriate public education to the child, a due process hearing shall be initiated in accordance with Section 1415(f) of Title 20 of the United States Code. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. While a resolution session, mediation conference, or due process hearing is pending, the child shall remain in his or her current placement, unless the parent and the public agency agree otherwise.

(g) In accordance with Section 300.300(d)(4)(i) of Title 34 of the Code of Federal Regulations, if the parent of a child who is neighborhood schooled or placed in a private school by the parents at their own expense does not provide consent for the initial assessment or the reassessment, or the parent fails to respond to a request to provide consent, the public agency shall not use the consent override procedures described in Section 300.300(a)(3) and (c)(1) of Title 34 of the Code of Federal Regulations. The public agency is not required to consider the child as eligible for services under Article 5.6 (commencing with Section 56170) of Chapter 2.

Legal References

See above citations.

Timelines

Numerous timelines govern the due process complaint procedures. It is recommended your LEA consult legal counsel prior to filing for due process or in the event a parent files for due process against your LEA to ensure all timelines are met.

Local Procedures

It is recommended you contact the SELPA prior to filing for due process or in the event a parent files for due process against your LEA. The SELPA can assist with resolution sessions and/or mediations.

APPENDIX A

	Mindy Fattig, SELPA Director 2622 Harris Street * Eureka, CA 95503
	(707) 441-2051 * (707) 445-6124 Fax hdnselfpa@hcoe.org * www.hdnselfpa.org

CONSENT TO RELEASE OR EXCHANGE INFORMATION

CHILD'S NAME: _____ DATE OF BIRTH: _____

DISTRICT/SCHOOL: _____

Written parental consent shall be obtained before personally identifiable information is disclosed in writing or orally to anyone other than authorized employees specified by the school district. You need to know that:

- You choose which agencies shall exchange information.
- You may refuse to sign this exchange form.
- Information about your child and family is strictly confidential. Your child's school maintains records specifying the source of the information, the date and purpose of any disclosure, and with whom information was shared.
- You have the right to review records.
- Your rights are preserved under: Title 34 Code of Federal Regulations; Family Education Rights Privacy Act of 1974, Title 20 of the United States Code, Section 1232 (g), Title 34 Code of Federal Regulations, Section 99.
- This consent is good for one year unless you withdraw your consent before that time.

I give permission for _____ to exchange information relevant to my child's education needs with the following agency/agencies/individual(s). Please initial the box(es) below to permit the exchange of information about your child with the specified agency/agencies/individual(s).

(Space after agency name may be used for phone and/or fax information.)

- | | |
|--|---|
| <input type="checkbox"/> Audiologist: _____ | <input type="checkbox"/> OT and/or PT: _____ |
| <input type="checkbox"/> California Children's Services: _____ | <input type="checkbox"/> Other Medical Specialist: _____ |
| <input type="checkbox"/> Community Child Care Resources: _____ | <input type="checkbox"/> Primary Care Physician/Clinic: _____ |
| <input type="checkbox"/> County Offices of Education: _____ | <input type="checkbox"/> Public Health Nursing: _____ |
| <input type="checkbox"/> Dept. of Mental Health: _____ | <input type="checkbox"/> Regional Center: _____ |
| <input type="checkbox"/> Dept. of Rehabilitation: _____ | <input type="checkbox"/> Speech Therapist: _____ |
| <input type="checkbox"/> Family Resource Centers: _____ | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Human/Social Services Dept.: _____ | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Infant Development Program: _____ | <input type="checkbox"/> Other: _____ |

A photocopy of this form shall be as valid as the original. I understand that I am to receive a copy of this authorization.

Parent/Guardian: _____ Date: _____

Parent/Guardian: _____ Date: _____

Please return information to:

District Name: _____

Address: _____

Attention: _____

Phone: _____ Fax: _____

Form # _____

APPENDIX B

NOTICE OF PROCEDURAL SAFEGUARDS AND PARENTS' RIGHTS

*Special Education Rights of Parents and Children
Under the Individuals with Disabilities Education Act, Part B
2004 Reauthorization (H.R. 1350)*

INTRODUCTION

This information provides you as parents, legal guardians, and surrogate parents of children with disabilities from 3 years of age through age 21 with an overview of your educational rights, sometimes called procedural safeguards. This notice is also provided for students who are entitled to these rights at age 18. (20 USC 1415; EC 56321) A copy of these safeguards will be given to you once a year. Additional copies may be given; upon an initial referral or parent request for evaluation, upon the first occurrence of the filing of a complaint under Section 615(b) (6) of H.R. 1350, and at your request. If your district has a website, a copy of these procedural safeguards may be made available to you through that website. [615(d) (1) (A-B)] You may elect to receive this notice and other notices required under this section by an electronic mail (e-mail) communication, if your district makes such an option available. [615(n)]

Participation in making decision about your child's education

You have the right to refer your child for special education services. You must be given opportunities to participate in any decision-making meeting regarding your child's special education program. You have the right to participate in an IEP meeting about the identification (eligibility), assessment, educational placement of your child and other matters relating to your child's free appropriate public education. [20 USC 1414(b)(c)(d) and (f); EC 56341(b), 56343(c)]

You also have the right to participate in the development of the IEP and to be informed of the availability of free appropriate public education, including all appropriate program options, and of all available alternative programs, both public and nonpublic.

Additionally, you have the right to electronically record the meeting on an audio tape recorder. The law requires that you notify the district 24 hours prior to meeting if you intend to record the proceedings. (EC 56321, 56301, 56506, and 56341)

Additional Assistance

When you have a concern about your child's education it is important that you call or contact your child's teacher or administrators to talk about your child and any problems you see. Staff in the Special Education Department can answer questions about your child's education, your rights, and procedural safeguards. When you have a concern, this informal conversation often solves the problem and helps maintain open communication. Additional resources are listed at the end of this document to help you understand the procedural safeguards.

NOTICE, CONSENT, ASSESSMENT, AND ACCESS

Prior Written Notice

You have the right to receive a written notice from the school district before decisions affecting your child's special education are put into place. These include decisions to:

- identify your child as a child with a disability, or change your child's eligibility from one disability to another;
- evaluate or reevaluate your child;
- provide a free appropriate public education to your child, or change a component of your child's free appropriate public education;
- place your child in a special education program; or,
- change your child's special education placement. (20 USC 1415[b]; EC 56329, 56506[a])

You also have the right to written notice from the school district if the district refuses your request to take these actions.

The Prior Written Notice must include the following:

- a description of the actions proposed or refused by the school district;
- an explanation of why the action was proposed or refused;
- a description of other options considered and the reasons those options were rejected;
- a description of each assessment procedure, test, record or report used as a basis for the action proposed or refused;
- a description of any other factors relevant to the action proposed or refused; and
- a statement that parents of a child with a disability are protected by the procedural safeguards.

If the notice is not in regard to an initial referral for assessment, the notice must provide a statement that you have protection under procedural safeguards; information on how you can obtain a copy of described procedural safeguards; and sources of additional assistance in understanding the procedural safeguards. (20 USC 1415[c])

Parent Consent

Parents' written approval is required for:

- **First Evaluation:** The school district must have your informed written consent before it can evaluate your child. You will be informed about the evaluations to be used with your child.
- **Re-evaluation:** The school district must have your informed written consent before reevaluating your child. However, the school district may reevaluate your child without your written consent if the school district has taken reasonable measures to get your consent and you have not responded.
- **Initial Placement in Special Education:** You must give informed written consent before the school district can place your child in a special education program. You can refuse consent for an evaluation, a reevaluation, or the initial placement of your child in special education. To avoid confusion, you should inform the school in writing if you want to refuse consent to a reevaluation. The school district may seek to evaluate or place your child in special education through a due process hearing, if it believes that it is necessary for your child's education. You and the school district may agree to first try mediation to resolve your disagreements.

(EC 56321[c], 56346,56506[e]; 20 USC 1414[a][c])

Consent forms must describe the activity for which consent is sought and list the records (if any) that will be released and to whom. You can revoke consent at any time, except that revocation is not retroactive (does not negate actions that occurred after consent was given and before consent was revoked). (34 CFR 300.500)

Surrogate Parent Appointment

In order to protect the rights of the child, school districts must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the school district cannot discover the whereabouts of a parent. A surrogate parent may be appointed if the child is an adjudicated dependent or ward of the court under the state Welfare and Institution Code and the child is referred to special education or already has an IEP. (20 USC 1415[b]; EC 56050)

Age of Majority

When your child reaches the age of 18, all rights under Part B of the Individuals with Disabilities Education Act (IDEA) will transfer to your child. The only exception will be if your child is determined to be incompetent under State Law.

(34 CFR 300.517 30; EC 56041.5)

Assessment

Nondiscriminatory Assessment

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory. Assessment materials

must be provided and the test(s) administered in your child's native language or mode of communication, unless it is clearly not feasible to do so. No single procedure can be the sole criterion for determining eligibility and developing an appropriate education program for your child. (20 USC 1414[a][b]; EC 56001[j] and 56320)

Assessment Plan

When the district is seeking to assess your child, you will be given a written, proposed assessment plan. Along with that plan you will receive a copy of this Procedural Safeguards document. When the assessment is completed, an individualized education program team meeting, which includes you, the parent or guardian, and or your representatives, will be scheduled to determine whether the student qualifies for special education services. The IEP Team will discuss the assessment, the educational recommendations and the reasons for these recommendations. A copy of the assessment report and the documentation of determination of eligibility will be given to you. (30 EC 56329 (a))

Independent Educational Evaluation

If you disagree with the results of the assessment conducted by the school district, you have the right to ask for an independent education evaluation (IEE) for your child, from a person qualified to conduct the assessment, at public expense. The school district must respond to your request for independent educational evaluation and provide you information, upon request, about where to obtain an independent educational evaluation. If the school district disagrees that an independent evaluation is necessary, the school district must request a due process hearing to prove that its assessment was appropriate. If the district prevails, you still have the right to an independent assessment but not a public expense. The IEP Team must consider independent assessments.

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom. If the school district proposes a new school setting for your child and independent educational assessor must be allowed to first observe your child in the proposed new setting. (EC 56329(b)and(c))

(20 USC 1415; EC 56506[c] and 56329[b]; 34 CFR 300.502)

Access to Educational Records

All parents of a child enrolled in the school district have the right to inspect records under the Family Education Rights and Privacy Act (FERPA), which has been implemented in California under Education Code Sections 49060-49079. Under IDEA, parents of a child with disabilities (including noncustodial parents whose rights have not been limited) have the right to review all educational records regarding the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education and to receive an explanation and interpretation of the records. Under California statutes the parents have the right to review and to receive copies of educational records. These rights transfer to a nonconserved pupil who is eighteen years old or attending an institution of post secondary education.

“Education record” means those records that are directly related to a pupil and maintained by an educational agency or a party acting for the agency or institutions, and may include (1) the name of the child, the child's parent or other family member; (2) the address of the child; (3) a personal identifier such as the child's social security number, student number, or court file number; (4) a list of personal characteristics or other information that would make it possible to identify the child with a reasonable certainty. Both federal and state laws further define a pupil record as 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 duties whether recorded by handwriting, print, tapes, film, microfilm, computer or by other means. Pupil records do not include informal personal notes prepared and kept by a school employee for his/her own use or the use of a substitute. If records contain information about more than one student, a parent can have access only to that portion of the record pertaining to his/her child.

The custodian of records at each school site is the principal of the school. The district custodian of records is the Director of Pupil Services. Pupil records may be kept at the school site or district office, but a written request for

records at either site will be treated as a request for records from all sites. The custodian of records will provide you with a list of the types and locations of pupil records (if requested).

The custodian of the records shall limit access to those persons authorized to review the pupil record, which includes the parents of the pupil, a pupil who is at least sixteen years old, individuals who have been authorized by the parent to inspect the records, school employees who have a legitimate educational interest in the records, post secondary institutions designated by the pupil, and employees of federal, state and local education agencies. In all other instances access will be denied unless the parent has provided written consent to release the records or the records are released pursuant to a court order. The district shall keep a log indicating the time, name and purpose for access of those individuals who are not employed by the school district.

You have a right to inspect and review all of your child's educational records without unnecessary delay, including prior to a meeting about your child's IEP or before a due process hearing. The school district must provide you access to records and copies, if requested, within five days after the request has been made orally or in writing. A fee for copies, but not the cost to search and retrieve, may be charged unless charging the fee would effectively deny access to the parent. *(20 USC 1415[b]; EC 56501, 56504, and 49069)*

Parents who believe that information in the education records collected, maintained or used by the school district is inaccurate, misleading or violates the privacy or other rights of the pupil may request in writing that the school district amend the information. If the district concurs, the record will be amended and the parent will be informed. Should the district refuse to make the amendment requested, the district shall notify the parent of the right to and provide a hearing, if required, to determine whether the challenged information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the pupil. If it is decided by the governing board after the hearing that a record will not be amended, the parent shall have the right to provide what he/she believes is a corrective written statement to be permanently attached to the record. The district has policies and procedures governing the retention and destruction of records. Parents wishing to request the destruction of records, which are no longer necessary to the school district, may contact the District's Custodian of Records. However, the district is required to maintain certain information in perpetuity.

(34CFR99; CFR300.561—573; 20USC 1415 [b](1); 34 CFR 500.567; EC 49070)

HOW DISPUTES ARE RESOLVED

Due Process Hearing

You have the right to request an impartial due process hearing regarding:

- The identification of your child for special education eligibility.
- The assessment of your child.
- The educational placement of your child.
- The provision of a free appropriate public education (FAPE) for your child.

The request for a due process hearing must be filed within three years from the date you knew or had reason to know of the facts that were the basis for the hearing request. [H.R.1350 §615(f)(3)(C)]

There is an exception to this timeline if you were prevented from requesting the hearing earlier because:

- a) the district misrepresented that it had resolved the problem
- b) the district withheld information that should have been provided to you. [H.R.1350 §615(f)(3)(D)]

Mediation and Alternative Dispute Resolution (ADR)

You may ask the school district to resolve disputes through mediation, which is less adversarial than a due process hearing. Alternative Dispute Resolution (ADR) may also be available in your district. Mediation and ADR are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing. The parents and the school district must agree to try mediation before mediation is attempted. A mediator is a person who is trained in strategies that help people come to agreement over difficult issues. *(20 USC 1415[e]; EC 56500.3)*

Due Process Rights

You have a right to:

1. Have a fair and impartial administrative hearing at the state level with a person who is knowledgeable of the laws governing special education and administrative hearings (*EC 56501[b]*);
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (*EC 56505[e]*; *20 USC 1415[h]*);
3. Present evidence, written arguments, and oral arguments (*EC 56505[e]*);
4. Confront, cross-examine, and require witnesses to be present (*EC 56505[e]*);
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (*EC 56505[e]*; *20 USC 1415[h]*);
6. Have your child present at the hearing (*EC 56501[c]*);
7. Have the hearing be open or closed to the public (*EC 56501[c]*);
8. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten calendar days prior to the hearing (*EC 56505[e]* and *56043[s]*; *20 USC 1415[b]*);
9. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five business days before a hearing and bar the introduction of any documents or witnesses if not informed within 5 business days (*EC 56505[e]*; *56403[t]*; *EC 56506.1[f]*);
10. Have an interpreter provided at the expense of the California Dept. of Education (*CCR 3082[d]*);
11. Request an extension of the hearing timeline (*EC 56505[f]*);
12. Have a mediation conference at any point during the due process hearing (*EC 56501[b]*); and
13. Receive notice from the other party, at least ten days prior to the hearing that it intends to be represented by an attorney. (*EC56507[a]*)

In any action or proceeding regarding the due process hearing, the court, in its discretion, may award reasonable attorneys' fees as a part of the costs to you as the parent of a child with a disability if you are the prevailing party in the hearing. Reasonable attorneys' fees may also be made following the conclusion of the administrative hearing with the agreement of the parties. (*20 USC 1415[i]*; *EC 56507[b]*)

Fees may be reduced for any of the following:

1. The court finds that you unreasonably delayed the final resolution of the controversy;
2. The hourly attorneys' fees exceed the prevailing rate in the community for similar services by attorneys of reasonable comparable skill, reputation, and experience;
3. The time spent and legal services provided were excessive; or
4. Your attorney did not provide to the school district the appropriate information in the due process complaint.

Attorneys' fees will not be reduced, however, if the court finds that the state or the school district unreasonable delayed the final resolution of the action or proceeding or there was a procedural safeguards violation. (*20 USC 1415[i]*)

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless an IEP meeting is convened as a result of a due process hearing proceeding or judicial action. Attorney fees may also be denied if you reject a reasonable settlement offer made by the district/public agency ten days before the hearing begins and the hearing decision is not more favorable than the settlement offer. (*20 USC 1415[d]*)

Filing a Written Due Process Complaint

To file for mediation or a due process hearing, contact:

**Office of Administrative Hearings
Special Education Unit
1102 Q Street, 4th Floor
Sacramento, CA 95814
Phone: (916) 323-6876
Fax: (916) 322-8014**

You need to file a written request for a due process hearing. The written notice shall be kept confidential. You or your representative needs to submit the following information in your request:

1. Name of the child;
2. Address of the residence of the child;
3. Name of the school the child is attending; and
4. A description of the nature of the problem, including facts relating to the problem(s) and a pro-posed resolution of the problem(s).

State law requires that either party filing for a due process hearing must provide a copy of the written request to the other party. *(20 USC 1415[h]; EC 56502[c])*

Child’s Placement While Due Process Proceedings are Pending

According to the “stay put” provision of the law, a child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school district agree on another arrangement. If you are applying for initial admission to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. *(20 USC 1415[j]; EC 56505[d]and [i])*

Opportunity for District to Resolve the Complaint

If you choose to file a due process complaint as explained in the section entitled “Filing a Written Due Process Complaint”, a meeting must be scheduled by the district within 15 days of receiving the notice of your due process complaint. The purpose of the meeting is to give you opportunity to discuss your due process complaint and the facts on which you based your complaint so that the district has a chance to address your concerns and work with you to reach a resolution. This meeting must be held before the initiation of a due process hearing. The meeting must include the parents and other members of the IEP team who have specific knowledge of the facts. The district has 30 days from the receipt of the due process complaint to resolve the due process complaint or the due process hearing must occur.

If the parents and the district are unable to resolve the due process complaint and it goes to hearing, the hearing decision is final and binding on both parties. Either party can appeal the hearing decision by filing a civil action in state or federal court within 90 days of the final decision. *(20 USC 1415[l]; EC 56505[g] and [i]; EC 56043[u])*

SCHOOL DISCIPLINE AND PLACEMENT PROCEDURES FOR STUDENTS WITH DISABILITIES

Children with disabilities may be suspended or placed in other alternative interim settings or other settings to the same extent these options would be used for children without disabilities.

If a child exceeds ten days in such a placement, an IEP meeting must be held to determine whether the child’s misconduct is caused by the disability. This IEP meeting must take place immediately, if possible, or within ten days of the school district’s decision to take this type of disciplinary action. *(20 USC 1415[k])*

As a parent, you will be invited to participate as a member of the IEP Team. The school district must provide you with a written notice of the required action. The school district may be required to develop an assessment plan to address the misconduct or, if your child has a behavior intervention plan, review and modify the plan, as necessary. If the IEP Team concludes that the misconduct was not a manifestation of your child’s disability, the school district might take disciplinary action, such as expulsion, in the same manner as it would for a child without disabilities.

If you disagree with the IEP Team’s decision, you may request an expedited due process hearing from the California Department of Education’s Special Education Hearing Office. *(20 USC 1415[k])*

Placement in an Interim Alternative Educational Setting

Under Federal law, a school district may place a child in an appropriate interim alternative placement for up to forty five days under certain circumstances. Those circumstances are when the child has carried a weapon or has knowingly possessed or used illegal drugs or sold or solicited sale of controlled substances at school or a school function.

(20 USC 1415[k])

If you request a hearing or an appeal regarding disciplinary action or manifestation determination, your child will stay in the interim alternative setting unless the maximum of 45 days is reached, another time frame is established by a hearing officer, or the parents and school district agree to another placement. (34 CFR 300.526)

Alternative educational settings, when permissible, must allow the child to continue to participate in the general curriculum and ensure continuation of services and modifications detailed in the IEP. (20 USC 1415[k])

Except by your consent or court order, your child can not be suspended for more than 10 consecutive days. If the district obtains consent for a suspension, longer than 10 days, it must continue to provide special education and services.

(20 USC 1415[k](3)[B][i]; 34 CFR 300.121 [d]; 30 EC 48911[b]; 30 EC 48915.5[d]; Honig vs. Doe)

CHILDREN ATTENDING PRIVATE SCHOOL

The school district is responsible for the full cost of special education in a private school or nonpublic, nonsectarian school, when the school district, together with the IEP Team, recommends that this would be the more appropriate placement for the student. (20 USC[a][10][B]; CFR 300.401; CFR 300.349[c]; EC 56361)

Observation of Your Child at a Nonpublic School

If you unilaterally place your child in a nonpublic school and you propose the placement in the nonpublic school to be publicly financed, the school district must be given the opportunity to first observe the proposed placement and your child in the proposed placement. The school district may not observe or assess any other child at the nonpublic school without permission from the other child's parent or guardian. (EC 56329(d))

Unilateral Parent Placement in Nonpublic or Private School

When the parent unilaterally places the student in a private or nonpublic, nonsectarian school without district consent or referral of a court or hearing officer, the district may only be required to reimburse the parent if their child received special education and related services under the authority of a public agency before enrolling in the private school and the court or hearing officer finds that the school district did not make a free and appropriate education available in a timely manner.

A court or hearing officer may not reduce or deny reimbursement to you if you failed to notify the school district for any of the following reasons:

- Illiteracy and inability to write;
- Giving notice would likely result in physical or serious emotional harm to the child;
- The school prevented you from giving notice; or
- You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of this notice requirement. (20 USC 1412[a]; 34 CFR 300.403)

The court or hearing office may reduce or deny reimbursement if you did not make your child available for an assessment upon written notice from the school district. You may also be denied reimbursement if you did not inform the school district that you were rejecting the special education placement proposed by the school district and did not give notice of your concerns and intent to enroll your child in a private school at public expense.

Notifying the District

You must notify the district of your intent to place your child in a private school:

- At the most recent IEP meeting you attended before removing your child from the public school; or
- In writing to the school district at least ten business days (including holidays) before removing your child from the public school. (20 USC 1412[a]; 34 CFR 300.403)

The district is not obligated to offer a free appropriate public education to a child whose parent(s) have voluntarily enrolled that child in a private school. In such cases, the district will propose an Individual Services Plan for Private School Students. (20 USC 1412(a)(10)(A)(I))

COMPLAINT PROCEDURES

State Appeal Process

Note: *Complaint procedures in this section are related specifically to the California State Appeal Process and are not the same as the due process complaint procedures covered earlier in this document.*

If you wish to file a complaint with the California Department of Education, you should submit your complaint in writing to:

**California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street Suite 2401
Sacramento, California 95814
Attn: PSRS Intake**

Within 60 days after a complaint is filed, the California Dept. of Education will: carry out an independent investigation, give the complainant an opportunity to provide additional information, review all information and make a determination as to whether the LEA has violated laws or regulations and issue a written decision that addresses each allegation.

For complaints involving issues not covered by IDEA, consult your district's Uniform Complaint Procedures.

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

APPENDIX C

Assessment Plan

Student Name _____ Date of Birth ___/___/___ Date ___/___/___

Initial Annual Triennial Transition Interim Other _____

To parent/guardian of _____ Assessment Plan Date ___/___/___

District _____ School _____

Grade _____ Date of Birth ___/___/___

Native Language _____ English proficiency/CELDLT Level _____

The student has been referred and/or recommended for an assessment by the following individual(s):

Parent Nurse Teacher Special Ed Teacher Other _____

This notice is to inform the parent(s) regarding the school district's proposal to initiate or change the: Identification Evaluation of the above named student:

This prior written notice includes a description of the proposed evaluation, an explanation of why the district proposed to take this action, a description of any other options that were considered and the reasons why those options were rejected, and other factors that are relevant in this proposal. Your written permission must be given before we assess your child to determine initial or continued eligibility for special education services. You have the right to be familiar with the assessment procedures and type of tests that may be given to your child. After the assessment is completed, you will be notified in writing of a meeting to discuss the results of the evaluation. If your child is found eligible for special education services, a full range of program options will be discussed.

Description of the proposed assessment:

The assessment will be conducted by qualified staff, and when appropriate, interpreters of the individual's primary language may be used. Tests conducted pursuant to these assessments may include, but are not limited to classroom observations, rating scales, one-on-one testing or some other types or combination of tests. No single procedure may be used as the sole criterion for determining appropriate educational program. Following the completion of the assessment, at the IEP meeting, you will receive a copy of the assessment findings. The results of this assessment may be a recommendation for special education services or maintenance or change of the current special education service(s). A student will not be placed in special education without consent of the parent or guardian. All information and assessment results are confidential.

Reason(s) for proposed assessment:

Description of other options considered and reasons for rejecting them:

Other factors relevant to the proposal:

Description of evaluation procedures, tests, records, or reports used in deciding to propose this assessment:

The district proposes to assess your child to determine his/her eligibility for special education services or continued eligibility and present levels of academic performance and functional achievement. Your child will be assessed in all areas of suspected disability as needed.* To meet your child's individual education needs, this assessment will consist of an evaluation in only the areas checked by the local educational agency (LEA)/district. *Tests and procedures conducted pursuant to these assessments may include, but are not limited to, classroom observations, rating scales, interviews, record review, one-on-one testing, or some other types or combination of tests.

Evaluation Area	Examiner Title
<input type="checkbox"/> Academic Achievement These assessments measure reading, spelling, arithmetic, oral and written language skills, and/or general knowledge	_____
<input type="checkbox"/> Health Health information and testing is gathered to determine how your child's health affects school performance	_____
<input type="checkbox"/> Intellectual Development These assessments measure how well your child thinks, remembers, and solves problems.	_____
<input type="checkbox"/> Language/Speech Communication Development These assessments measure your child's ability to understand and use language and speak clearly and appropriately.	_____
<input type="checkbox"/> Motor Development These assessments measure how well your child coordinates body movements in small and large muscle activities. Perceptual skills may also be measured.	_____
<input type="checkbox"/> Social/Emotional These assessments indicate how your child feels about him/herself, gets along with others, takes care of personal needs at home, school and in the community.	_____
<input type="checkbox"/> Adaptive/Behavior These assessments indicate how your child takes care of personal needs at home, school and in the community.	_____

Assessment Plan

<input type="checkbox"/>	Post-Secondary Transition These assessments provide information related to transition training, education, employment, and where appropriate, independent living skills.	
<input type="checkbox"/>	Other _____	
<input type="checkbox"/>	Alternative Means of Assessment (Describe alternative methods of assessing the child, if applicable) _____	

Parents/Guardians have protections under state and federal procedural safeguard provisions. Please refer to the enclosed NOTICE OF PROCEDURAL SAFEGUARDS for an explanation of these rights. If you would like further information about your rights or the proposed action and/or referral please contact:

Print Name of District Contact	Position	Phone	E-mail Address
_____	_____	_____	_____

- I consent to the assessment. I understand that the results will be kept confidential and that I will be invited to attend the IEP team meeting to discuss the results. I also understand that no special education services will be provided to my child without my written consent.
- I do not consent to the proposed assessment described above.
- I would like the following assessment information to be considered by the IEP team _____

Signature _____ Date __/__/____

Parent Guardian Surrogate Adult Student

If my child is or may become eligible for public benefits (Medi-Cal): I authorize the LEA/district to release student information for the limited purpose of billing Medi-Cal/Medicaid and to access Medi-Cal: health insurance benefits for applicable services.

Signature _____ Date __/__/____

Parent Guardian Surrogate Adult Student

Parent/Guardian/Student has received written notification of protections available to parents when LEA requests to access Medi-cal benefits

Address _____ Phone number _____

Comments _____

Date Received by District/LEA __/__/____

APPENDIX D



Mindy Fattig, SELPA Director
2922 Harris Street ♦ Eureka, CA 95503

(707) 441-2051 ♦ (707) 445-6124 Fax
hdnselpa@hcoe.org ♦ www.hdnselpa.org

Low Incidence Request for Assistance

Student: _____ Grade: _____ DOB: _____ School: _____
Person completing form: _____ Title: _____
Case Carrier: _____ Phone: _____ Email: _____
Primary Teacher(s): _____
Related Service Provider(s): _____
Student's Eligibility: _____ District of Residence: _____
Parent(s): _____ Phone: _____

Student's Low Incidence category:

Visual Impairment Deaf/Hard of Hearing Orthopedic Impairment

SELPA Specialists: Please check the specialist(s) you would like to assist you.

Visual Impairment Deaf/Hard of Hearing Orthopedic Impairment
 Orientation & Mobility

Reason for request: (Goals and/or specific supports needed and/or desired accomplishments?)

Pertinent background information related to the request:

What supports are currently in place?

What supports have already been tried?

Administrator's Signature: _____ Date: _____

Upon completion, please send this form to:

Humboldt-Del Norte SELPA, Attn: Starline Pitlock
2822 Harris Street, Eureka, CA 95503 spitlock@hcoe.org (707) 441-2051 phone (707) 445-6124 fax

APPENDIX E

Exit Interview High School Senior Post-Secondary Questionnaire

Student Name: _____ DOB: _____ School of Attendance: _____
May we contact you for follow-up? Yes or No Cell Phone Number: _____

Directions: Circle the answer that best applies.

1) What program do you plan on doing after high school?

- 100 None
- 200 Four-year college/university
- 210 Community college
- 220 Vocational or technical school (Two-year degree program)
- 300 GED program
- 310 Vocational or technical school (Certificated program)
- 320 Regional Occupational Programs (ROP) Classes
- 330 Work Force Investment Act (WIA) supported program
- 340 Non-Work Ability Employment Program
- 350 Adult Training Program
- 400 Military training
- 800 Not able to contact
- 850 Refused to answer
- 900 Incarcerated

2) Do you have plans for employment for after high school?

- 10 Yes
- 20 No
- 30 Some other employment
- 80 Not able to contact
- 85 Refused to answer

Notes: _____

APPENDIX F

Independent Educational Evaluation (IEE) Policy

OVERVIEW

The Humboldt-Del Norte Special Education Local Plan Area ("SELPA") has developed this policy, corresponding procedures and criteria, which govern independent educational evaluations. Parents should be sure to read the entire document carefully. The Policy, Procedures and Criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about independent educational evaluations should contact the office of the SELPA Administrator at (707)441-2051.

NOTICE TO PARENTS

- Please read this document before obtaining or paying for an independent educational evaluation. This document may limit your right to reimbursement.
- Before obtaining an independent educational evaluation, please contact the Administrator/Designee from your district to discuss your evaluation questions and options.
- The school district will not automatically reimburse parents who unilaterally obtain independent educational evaluations. Please ensure that any independent educational evaluation conforms to SELPA requirements.

DEFINITIONS

"Independent educational evaluation" (IEE) means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question.

"Public expense" means that school district either pays for the full cost of the IEE or ensures that the IEE is otherwise provided at no cost to the parent.

PARAMETERS FOR SEEKING INDEPENDENT EDUCATIONAL EVALUATION

Parents have the right to request an IEE at public expense if they disagree with an evaluation completed by the school district, subject to the policy, procedures and criteria specified in this document and applicable laws. The school district requires that the parent first inform the school district's Administrator/Designee in writing or communicate to the school district at an IEP meeting that the parent:

1. Disagrees with the school district's evaluation; and
2. Is requesting an independent educational evaluation at public expense.

The parent may only request one publicly funded independent evaluation for each evaluation completed by the school district.

If a parent disagrees with an evaluation by the school district and seeks an IEE at public expense, the school district, without unnecessary delay, will either initiate a due process hearing to show that its evaluation is appropriate or will ensure that an IEE is provided at public expense. If the district initiates a hearing and the final decision is that the district's assessment is appropriate, the parent has a right to an IEE but not at public expense.

EXPLANATION OF DISAGREEMENT

If parents request an IEE at public expense, the school district may ask for a reason why they object to the school district's evaluation, the specific areas of disagreement with the school district's evaluation and a list of the desired assessment areas, issues, or questions parents want to be addressed by the IEE. However, the school district may not unreasonably delay either providing the IEE at public expense, or the initiation of due process hearing to defend its evaluation. There is no requirement that the parents specify areas of disagreement with the school district's evaluation as a prior condition to obtaining the IEE.

RESPONSE TO REQUEST FOR AN INDEPENDENT EDUCATIONAL EVALUATION

If parents request an IEE at public expense in writing or at an IEP meeting, an attempt may be made by the district to resolve the issue within district by taking these steps:

1. The district Administrator/Designee will be notified.
2. Parents will be provided a copy of the SELPA policy, procedures and criteria for IEE, which includes information regarding where IEEs may be obtained, as well as the Notice of Procedural Safeguards.
3. The school district's evaluation will be reviewed with the parents to identify any areas of disagreement. However, parents are not obligated to explain why they disagree with the district's evaluation.
4. The district may offer the parent the option of another evaluation conducted by a district staff member from another school. If parents select this option then it must be documented in writing that parents agree to postpone their request for an IEE until the new district assessment is completed. However, if parents do not agree to postpone their request for an IEE, then the district will timely comply with step 5 below.
5. The district, in coordination with the Humboldt-Del Norte SELPA, will determine whether to initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an IEE.

The above procedures must be completed in a timely manner. Without unnecessary delay, the district must decide whether to initiate a due process hearing to show that its evaluation is appropriate, or must ensure that an IEE is provided at public expense.

1. If the district determines that it will provide an IEE at public expense, the district will provide parents with a copy of this policy which includes options for an IEE at public expense (a-e below).
 - a. A staff member from another LEA in the SELPA
 - b. A SELPA staff member
 - c. A staff member from another SELPA
 - d. A public sector provider
 - e. A private sector provider

If the parents choose option (e) above, the district will provide parents with a list of evaluators. Parents are entitled to choose an evaluator not specified on the provided list if parents can demonstrate unique circumstances necessitating the chosen evaluator. If parents desire a specific IEE evaluator not on the list, parents must provide the district with the evaluator's name so that the district may:

- a. Verify the qualifications, certifications and/or license of evaluator
- b. Determine that the fee rate for the IEE is within the cost criteria specified in this document
- c. Initiate and negotiate a contract with the evaluator if the District chooses.

When enforcing the agency criteria, the district allows parents the opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the agency's criteria.

2. If the district decides to deny the IEE request, the district must file for due process without unnecessary delay. Parent may initiate a due process hearing if they disagree with agency criteria. They may also opt to select a different evaluator that does comply with agency criteria. If the school district chooses to initiate a due process hearing to demonstrate that its evaluation is appropriate, it must provide the parent with "prior written notice" of its refusal to provide an IEE. If the school district initiates a hearing and the final decision is that the school district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

In the interest of consistency for the timelines between public and private evaluations, the SELPA encourages parents to choose an option for an IEE offered by the school district within 15 days of receiving the options. The parent will communicate, in writing, their preferred option of (a) through (e) in 1. above.

3. Once the parent chooses an option, an assessment plan will be developed by the district within 15 days, which specifies those areas to be evaluated and the type of assessor (e.g., Speech and Language therapist) who will complete each assessment. The parent will be encouraged to participate in the development of the assessment plan. Once the parent's written consent to the assessment plan is received by the school district, the school district will make necessary arrangements with the examiner to ensure that an IEE is provided at public expense. Parents will be required to sign appropriate releases to exchange information between the independent educational evaluators and the school district. In addition, the school district will seek input from the parents as to desired assessment areas, issues, or questions parents want to be addressed by the IEE
4. The school district will make every effort to contract with a qualified independent educational evaluation examiner who is able to provide a written report for an IEP meeting within 60 days of receiving the signed assessment plan. However, because school districts cannot impose timelines on obtaining an IEE, the school district cannot ensure that this evaluation will be completed within 60 days of the school district's receipt of the signed assessment plan. If the selected candidate cannot meet the time line, the school district will inform the parent and ask for agreement to an extension of the 60 day time period or select another evaluator who can meet the time line.
5. The assessment/s completed must be consistent with the location limitations of the evaluator/s, the minimum qualifications of evaluator/s, and the costs of the evaluation as set forth in this policy, and consistent with criteria that the District uses when it initiates an evaluation. As part of an IEE, the examiner shall follow guidelines for school district evaluations, which include, but are not limited to, observing the student in an appropriate setting.

PROCEDURES FOR OBSERVATIONS BY INDEPENDENT EDUCATIONAL EVALUATORS

Education Code § 56329, in part, allows independent assessors the right to observe a special education student in his or her current placement or any placement proposed by the educational agency if the public agency's assessment includes, or its assessment procedures permit, such an observation.

The Humboldt-Del Norte SELPA has established the following procedures and guidelines for these observations:

- The independent evaluator will notify the District Administrator/Designee and Site Administrator of their request to schedule an observation in writing five school days prior to the date of the observation.
- The District Administrator/Designee will coordinate with the Site Administrator and independent evaluator to determine a mutually agreeable time and place for the observation. Prior to the observation, the purpose of the observation, the length of the observation and the location(s) of the observation will be agreed to. Observations will be limited to one independent evaluator per day.
- The District Administrator/Designee will assign a district staff member to meet the independent evaluator and accompany him/her during their observation.
- In order to protect the privacy of other students, there will be no videotaping or recording during observations. There will be no direct contact with students.
- If the independent evaluator wishes to discuss the observation with district staff, advance notification of this request will be necessary, so that adequate coverage of students can be arranged. Interviews or discussions with staff shall be limited to certificated staff.

CONSIDERATION OF THE INDEPENDENT EDUCATIONAL EVALUATION

Independent educational evaluations are designed to determine the educational needs of students with disabilities. The IEP team is responsible for determining educational placements and services. Therefore, the IEP team will consider recommendations obtained in IEEs as to student's unique needs, eligibility category and recommendations which are designed to assist student in making educational progress in accordance with this policy and procedure. However, IEEs do not control

the school district's determinations and may not be considered if not completed by a qualified professional, as determined by the school district.

PARENT INITIATED EVALUATIONS

If the parents obtain an IEE at private expense, the results of the evaluation:

1. Shall be considered in any decision made with respect to the provisions of FAPE to the student; and
2. May be presented by either party as evidence at a due process hearing regarding that student.

EVALUATIONS ORDERED BY HEARING OFFICERS

If an Administrative Law Judge (ALJ) requests an IEE as part of a due process hearing, the cost of the evaluation must be at public expense. See 56505.1 Ed Code and 34 CFR 300.502(d).

CIRCUMSTANCES RESULTING IN EVALUATION NOT FUNDED BY THE SELPA

Because the parent must first disagree with the school district's evaluation in writing, the school district does not have an obligation to reimburse parents for privately obtained evaluations obtained prior to the date that the school district's evaluation is completed and discussed at an IEP team meeting. The school district is not obligated to reimburse parents for privately obtained evaluations if the parent disagrees with the school district's evaluation and independently seeks a private evaluation without first notifying the school district in writing of their disagreement with the school district assessment and requesting an IEE from the school district.

Independent Educational Evaluation - Criteria

LOCATION LIMITATIONS FOR EVALUATORS

Evaluators must be located within Humboldt or Del Norte Counties. Evaluators outside this area will be approved only in unique circumstances, providing the parents can demonstrate the necessity of using personnel outside the specified geographical area. Parents must obtain prior written approval from the district in order for the district to fund an IEE from an evaluator located outside the specified geographical area.

COST CONTAINMENT CRITERIA FOR EVALUATIONS

Cost above the maximum allowable amounts will not be approved unless the parent can demonstrate that unique circumstances justify going above the cost criteria described below. The cost of the evaluation shall include observations, administration and scoring of tests, report writing, and attendance (in-person or telephonically) at the IEP team meeting to discuss the findings if invited by the school district.

As part of the contracted evaluation, independent evaluators must provide protocols of all the assessments, and provide a written report prior to the IEP team meeting. Examiners must agree to release their assessment information, including protocols, and results to the district/SELPA prior to receipt of payment for services. The results of the IEE will be considered in any IEP team decision made with respect to the provision of a free appropriate public education with regard to the student with disabilities as required by the IDEA and or Section 504 of the Rehabilitation Act of 1973. However, the IEP team's obligation to consider the IEE does not obligate the team to accept the evaluation and/or any or all of its recommendations.

MINIMUM QUALIFICATIONS FOR EVALUATORS

All assessments must be conducted by persons competent to perform the assessment as determined by this criteria as well as any other criteria the district uses when it conducts an assessment to the extent those criteria are consistent with the parent's right to an independent educational evaluation. All assessments must be conducted in accordance with all of the requirements of state and federal law, including but not limited to observing the student in the appropriate setting and conducting evaluations in accordance with Education Code § 56320. A written report must be prepared to include all of the requirements of Education Code section 56327, which are as follows:

- a. Whether the pupil may need special education and related services;
- b. Which services and the basis for that 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 the guidelines established pursuant to Education Code 56136.

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications.

GUIDELINES FOR DETERMINING QUALIFICATIONS

Should parent select an independent evaluator, parent should request a copy of his/her resume, a reference from any school districts that have used him/her before and an itemized cost for the evaluation including the cost of writing the report. Prior to obtaining an IEE, parent should provide a copy to the district for review to ensure the evaluator has proper licensure/credentials and otherwise meets agency criteria.

CONFLICT OF INTEREST

District/SELPA may, in its discretion, not fund an IEE by an evaluator who provides ongoing service(s) or is sought to provide service(s) for whom the IEE is requested.

CRITERIA FOR DETERMINING IF PRIVATE INSURANCE CAN BE ACCESSED

When parent's private insurance will cover all or part of the costs of the IEE, the district may request that parents voluntarily have their insurance pay the IEE costs covered by their insurance.

A public agency may access a parent's private insurance to pay all or part of an IEE only if the parents provide informed, written consent. Parents must be informed that they could incur costs in using their private insurance to pay for the IEE. Parents should check with their private insurance provider before providing consent so that they understand the costs they might incur. The district may pay for any out of pocket costs associated with using private insurance to pay for the cost of the IEE.

Parents may refuse to use their private insurance and this refusal will not relieve the district of its responsibility to ensure the IEE, once granted, is provided at no cost to the parent.

Type of Assessment	Limit	Qualifications
Academic Achievement	\$700.00	Credentialed Special Education Teacher Credential School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Adaptive Behavior	\$400.00	Credentialed Special Education Teacher Credential School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Assistive Technology	\$500.00	Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credential Assistive Technology Specialist Licensed Occupational Therapist Certificate in Assistive Technology issued by post-secondary institution
Auditory Acuity	\$280.00	Licensed or Credentialed Audiologist Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Auditory Processing	\$300.00	Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed School Psychologist Licensed Educational Psychologist
Cognitive	\$650.00	Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist
Health	\$250.00	Licensed Physician Credentialed School Nurse
Motor	\$700.00	Licensed Physical Therapist Licensed Occupational Therapist Credentialed Adaptive Physical Education Specialist
Visual Motor Integration	\$300.00	Credential School Psychologist Licensed Educational Psychologist Licensed Occupational Therapist
Visual Acuity/ Developmental Vision	\$300.00	Licensed Ophthalmologist Optometrist
Functional Vision	\$300.00	Credentialed Teacher of the Visually Impaired
Visual Processing	\$250.00	Credentialed School Psychologist Licensed Educational Psychologist Credentialed Special Education Teacher
Speech and Language	\$800.00	Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Social Emotional	\$600.00	Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Social Worker Licensed Marriage and Family Therapist Licensed Clinical Psychologist Licensed Psychiatrist
Transition/Vocational	\$2,000.00	Credentialed Special Education Teacher Credentialed School Psychologist
Behavior	\$2,000.00	Credentialed School Psychologist with BICM or BCBA Certification Licensed Educational Psychologist with BICM or BCBA Certification Education Specialist BCBA Certification

An independent multidisciplinary evaluation will be limited to a total of \$5,000, including attendance at IEP meetings and any additional costs for travel and lodging.

Legal References:

20 U.S.C. 1414(a)(1)(A) – Evaluations and re-evaluations
20 U.S.C. 1415(b)– Right to independent educational evaluation
34 CFR 300.321 – Re-evaluations
34 CFR 300.502 – Independent Educational Evaluations
Comments to 34 CFR 300.502 Independent educational Evaluations
Education Code section 56327
34 CFR 300.505 – Parent Consent – Evaluation 34
CFR 300.537 – Re-evaluations
Education Code 56329 – Independent educational assessments
Education Code 56381 – Reassessments

Humboldt - Del Norte SELPA

Independent Educational Evaluation Assessment Plan

Student Name _____ **Date of Birth** ___/___/_____ **Date** ___/___/___

Initial Annual Triennial Transition Interim Other _____

To Parent/Guardian of _____ Date _____

District _____ School _____

Grade _____ Date of Birth ___/___/_____

Native Language _____ English proficiency/CELDT Level _____

The district proposes to assess your child to determine his/her eligibility for special education services or continued eligibility and present levels of academic performance and functional achievement. Your child will be assessed in all areas of suspected disability as needed.* To meet your child’s individual education needs, this assessment will consist of an evaluation in only the areas checked by the local educational agency (LEA)/district. *Tests conducted pursuant to these assessments may include, but are not limited to classroom observations, rating scales, one-on-one testing or some other types or combination of tests.

Evaluation Area

Examiner Title

<input type="checkbox"/> Academic Achievement These tests measure reading, spelling, arithmetic, oral and written language skills, and/or general knowledge	_____
<input type="checkbox"/> Health Health information and testing is gathered to determine how your child's health affects school performance	_____
<input type="checkbox"/> Intellectual Development These tests measure how well your child thinks, remembers, and solves problems.	_____
<input type="checkbox"/> Language/Speech Communication Development These tests measure your child's ability to understand and use language and speak clearly and appropriately.	_____
<input type="checkbox"/> Motor Development These tests measure how well your child coordinates body movements in small and large muscle activities. Perceptual skills may also be measured.	_____
<input type="checkbox"/> Social/Emotional These scales will indicate how your child feels about him/herself, gets along with others, takes care of personal needs at home, school and in the community.	_____
<input type="checkbox"/> Adaptive/Behavior These scales indicator how your child takes care of personal needs at home, school and in the community.	_____
<input type="checkbox"/> Post-Secondary Transition Age appropriate transition assessments related to training, education, employment and where appropriate independent living skills.	_____
<input type="checkbox"/> Other _____	_____
<input type="checkbox"/> Alternative Means of Assessment (Describe alternative methods of assessing the child, if applicable) _____	_____

I consent to the assessment. I understand that the results will be kept confidential and that I will be invited to attend the IEP team meeting to discuss the results. I also understand that no special education services will be provided to my child without my written consent.

I do not consent to the proposed assessment described above.

I would like the following assessment information to be considered by the IEP team _____

Signature _____ / / _____

Parent Guardian Surrogate Adult Student

Date _____

Address _____

Phone number _____

Comments _____

NOTE Prior Written Notice attached if this is an initial evaluation.

Date Received by District/LEA ____/____/____

APPENDIX G

SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE (SCIA) POLICY

Every school district within the Humboldt-Del Norte SELPA is required to provide a full continuum of placement options for students with identified disabilities who are receiving special education services. The Individuals with Disabilities Education Act (IDEA) and California laws and regulations describe a continuum of placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (34 CFR § 300.551(b)(1)).

The IDEA also defines related services as the utilization of aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate. This applies to any general education program or special education program in which the student may participate (34 CFR Part 300.550-300.556). There may be special circumstances when a student may need additional support in order to be successful in his/her educational placement.

A goal for any student with special needs is to encourage, promote, and maximize independence. The Individualized Education Plan (IEP) team is responsible for developing and implementing a program that promotes that independence. Natural supports and existing staff supports should be used whenever possible.

If the IEP team is considering a Special Circumstance Instructional Assistance (SCIA) as a support for the classroom staff, the team must determine:

1. Natural supports and/or existing staff supports are not adequate for the student to participate and progress in the general education program;
2. Additional support is necessary to assist classroom staff in facilitating the student in:
 - a. Advancing appropriately toward the annual goals and/or;
 - b. Involvement in and progress in the general curriculum and/or;
 - c. Participation in extracurricular and other nonacademic activities and/or;
 - d. Participation with other disabled and non-disabled students.
3. How quickly it anticipates the support can be faded and develop a method for systematic evaluation toward independence and more natural supports.

If the IEP Team recommends SCIA support, the team is also responsible for monitoring the student's progress and ensuring that, when appropriate, a plan is put in place to create independence from the SCIA, with the ultimate goal of decreasing and removing the SCIA service from the student's IEP. If not carefully monitored and evaluated on a regular basis, SCIA support can unintentionally foster dependence.

Initial

When the members of the IEP team are considering the need for a SCIA support, unless there is an urgent need where health or safety is at imminent risk, the IEP team should do the following:

1. Have the parent consent to an assessment plan to determine whether the student requires a SCIA for FAPE. This assessment should include completion of the Referral for SCIA Assistance, Rubric to Determine Need for SCIA Support, an Evaluation Report and an Independence Plan. The assessment team can consider whether use of standardized tests, such as the BASC or the ABAS, would also provide the team with helpful data. This assessment typically will be completed by a school psychologist. See Initial SCIA Assessment Process.
2. Using the assessment data, the IEP team should be able to identify the specific activities and times for which additional assistance or supervision is required

Urgent-Need SCIA Support: There are some instances in which the need for SCIA support can be immediate because there is an imminent risk to one or more students' health and/or safety. In those situations, the IEP team can use existing data to support the need for a SCIA on a short-term basis. The IEP should be clear that the SCIA service is temporary, and the IEP team should proceed with a SCIA assessment quickly.

Review of need

At regular intervals, at least annually, designated members of the IEP team should use the tools to collect data about whether the level of assistance continues to be needed. As the student's level of independence or ability to use natural supports increases, behavior improves or the make-up of the class changes, the student's need for assistance should be reviewed, and decreased as able.

Areas of need

It is important that the team consider each type of assistance listed below in order to determine if the student needs assistance with a particular activity and to estimate the amount of SCIA time that will be needed.

1. Health/Personal Care-
 - a. Self-help and bathroom needs- If a student needs assistance with toileting or other self-help skills, the team should note the times and duration for this activity. This should only be for brief periods during the day.
 - b. Assistance during snack or lunch- If the student requires assistance with feeding, etc., note the type of assistance needed and note the times and duration required. Encourage reliance on peer helpers (with supervision) or other natural supports as much as possible for getting out food, opening containers, etc. An Occupational Therapist may need to be a part of the SCIA assessment if the student has feeding-related needs.

APPENDIX H

Special Education Timelines in California			
Service/Obligation	Timeline	Exceptions/Notes/Considerations	Authority
Initial Assessment and IEP Development			
Propose an assessment plan for initial assessment.	15 Calendar days from date of referral.	<ul style="list-style-type: none"> • Tolled for school breaks in excess of 5 schooldays. • If referral received 10 days or fewer before end of school year, then due within first 10 days of next school year. • <i>Note:</i> Attach procedural safeguards notice to proposed assessment plan 	EC 56043(a) EC 56321(a)
IEP team meeting to review initial assessments.	60 calendar days to determine the student's eligibility and areas of need after receipt of parent consent to assessment plan.	<ul style="list-style-type: none"> • Student enrolls in another LEA. • Student not made available. • <i>Note:</i> CDE currently interprets the law to toll the timeline for school breaks in excess of 5 schooldays. 	EC 56043(c) EC 56302.1
	30 days to develop the IEP after determination that student needs special education.	None.	EC 56043(f)(2) EC 56344(a)
	<i>Recommended:</i> complete the student's initial IEP in its entirety within 60 days unless one of the exceptions above applies.		
Applicable to All IEPs			
Notify parents of the IEP team meeting (send IEP meeting notice).	"Early enough to ensure an opportunity to attend" the IEP meeting.	None.	EC 56043 (e) EC 56341.5(b)
Notice of procedural safeguards.	<ul style="list-style-type: none"> • Inform parents of procedural safeguards "at each" IEP meeting. • Give a copy of the notice to parent(s) at least once each school year. 	None.	EC 56500.1 34 CFR 300.504
Implement the IEP.	"As soon as possible" after receipt of parent consent to the IEP.	None.	EC 56043(i) EC 56344(b)
Progress reports on IEP goals provided to parent(s).	Per the IEP.	None.	EC 56345(a)(3)
Re-assessments			
Triennial eligibility review.	Every 3 years based on the date of the last triennial review.	<ul style="list-style-type: none"> • May occur more frequently if necessary, but no more than once per year unless the parties agree. • Parent and Lea may agree in writing that triennial assessments are not necessary. They may also agree to limit the scope of the review. • <i>Recommended:</i> Begin triennial assessment process at least 60 days prior to the triennial review. 	EC 56043(k) EC 56381

Propose assessment plan for re-assessment.	15 calendar days from the date of referral.	<ul style="list-style-type: none"> Tolled for school break in excess of 5 schooldays. If referral received 10 days or fewer before end of school year, then due within first 10 days of next school year. <i>Note:</i> Attach procedural safeguards notice to assessment plan. 	EC 56043(a) EC 56321(a)
Parent consent to proposed assessment plan.	At least 15 calendar days after receipt of the proposed assessment plan.	None.	EC 56043(b) EC 56312 (c)(4)
Additional IEP Meetings			
Annual IEP team review.	No longer than 12 months from the date of the last annual IEP.	None.	EC 56043(d), (j) EC 56343(d) EC 56380
IEP team meeting to review re-assessment (including triennial assessments).	60 calendar days after receipt of parent consent to the assessment plan.	<ul style="list-style-type: none"> Tolled for school breaks in excess of 5 schooldays. If referral received 30 days or fewer before end of school year, then due within first 30 days of next school year. 	EC 56043(f)(1) EC 56343(a) EC 56344(a)
Parent requested IEP team meeting.	30 calendar days after written request from parent for IEP team meeting.	<ul style="list-style-type: none"> Tolled for school breaks in excess of 5 schooldays. If parent makes an oral request for IEP team meeting, school district must direct parent to make a written request. 	EC 56043(l) EC 56343.5
IEP meeting to review student's lack of anticipated progress.	No statutory timeline.	<i>Consider:</i> Convene the IEP team within 30 days after determining that the student is demonstrating a lack of anticipated progress.	EC 56343(b)
Transition Planning Requirements			
Individual transition plan (ITP) in IEP.	Must be in IEP when student turns 16.	Must be reviewed annually.	EC 56043(g)(1), (h) EC 56341.5(e) EC 56345(a)(8)
Student informed of transfer of rights at age 18.	Must be in IEP when student turns 17.	<i>Consider:</i> Provide additional notice upon the student turning 18.	EC 56041.5 EC 56043(g)(3) EC 56345(g)
Notice to parent(s) of student's graduation from high school with diploma.	"Reasonable prior written notice" must be provided.	None.	EC 56500.5
Independent Educational Evaluations (IEE)			
Respond to a request for IEE.	No specific statutory timeline, but must respond without unnecessary delay.	<i>Recommended:</i> 10 - 15 calendar days after request for an IEE from parent(s).	34 CFR 300.502(b)
Discipline			
Provide parent(s) with notice of change of placement and copy of procedural safeguards.	Day decision is made to removed student for disciplinary purposes for >10 schooldays	Refer to 34 C.F.R. section 300.530	34 CFR 300.530(h)
Conduct a manifestation determination review.	Within 10 schooldays after the decision is made to remove student for disciplinary purposes for >10 schooldays	Refer to 34 C.R.R. section 300.530.	34 CFR 300.530(e)
Student Records/Record Requests			

Provide Parent(s) with copies of student records.	After an oral or written request from parents: <ul style="list-style-type: none"> • Within 5 business days and • “before” any IEP meeting or resolution session. 	None.	EC 56043(n) EC 56504
Provide new LEA with special education records.	5 business days after request from new LEA for records.	None.	EC 56043(o)

APPENDIX I

General Residential Treatment Center Information

GENERAL INFORMATION

What are residential treatment centers and non-public schools?

A residential treatment center (RTC) is live-in facility that provides students with therapeutic and behavioral interventions and treatment when their needs exceed what is available in their district, typically because their needs at home are intertwined with their needs in the educational environment. The term non-public school (NPS) can be used to describe the educational setting that is a part of the residential treatment program. A variety of different RTC/ NPSs exist across the country addressing a multitude of different needs and populations.

When is it appropriate to consider an RTC placement?

A time may come where a student's needs exceed that which the district of residence is able to accommodate. When that happens, the IEP team will want to meet to consider if the student is able to make adequate progress in their current setting. A review of the student's files, assessment results, psychoeducational reports, and socio-emotional data should be done and updated if needed. All of these items help to determine the student's needs and develop goals. Progress, or lack thereof, towards their goals will help to guide this conversation and determine if the IEP team should discuss an alternate placement in an RTC. Data should always drive all placement decisions made by the IEP team. The IEP team should always implement other options first, including offering and increasing services and accommodations, and changing placements to more restrictive settings.

DETERMINING LEAST RESTRICTIVE ENVIRONMENT

How do we determine if an RTC is the least restrictive environment?

All special education students should receive their services in the least restrictive environment (LRE) possible. It should always be a goal of the IEP team to ensure that the student's needs are being met but in a way that allows him/her as many of the same opportunities as their peers, which includes access to a comprehensive campus and/or to general education peers. An RTC placement should be considered the most restrictive environment that can be considered and as such should be done only when necessary because all students at an RTC are special education students, the students are not on a comprehensive campus, and the students have been removed from their homes and/or communities.

All other, less restrictive, options available within the LEA should be exhausted prior to the IEP team recommending that an RTC be considered. The team should discuss progress on goals, what the student needs in order to access their special education, and other services as well as modifications and accommodations that could be implemented prior to discussing an RTC. Additionally, the IEP team should have tried to implement all other placements on the continuum for the student, including a special day class. If the student requires more intensive support than what the LEA is able to offer and their needs require an RTC, then such a placement could be the least restrictive environment for that student. The legal test for whether an RTC placement is necessary for educational purposes looks at whether the placement is for educational purposes, or whether the placement is a response to medical, social, or emotional problems that is quite apart from the learning process.

How do we document that we have considered all other options?

As part of the IEP team discussion about an RTC placement the benefits as well as potential harmful effects should be discussed and noted as well as other options the team considered.

This discussion should be documented thoroughly in the IEP notes from the meeting as well as on the Offer of FAPE- SERVICES page of the IEP. See next section for an example of how to document the options that were considered and why an RTC is the least restrictive environment and is therefore the offer of free appropriate public education (FAPE) from the district. This language should not be copied verbatim into any student's IEP but rather used as an example only.

RESIDENTIAL TREATMENT CENTER AS THE OFFER OF FAPE

How do we offer an RTC as our offer of FAPE?

In 2011, the California Legislature passed Assembly Bill 114, which made school districts solely responsible for guaranteeing that students with disabilities receive special education and related services to meet their needs, including placement of students in RTCs. This means that it is a district and an IEP team decision whether or not an RTC is an appropriate offer of FAPE for the student. It also means that it the school district is responsible for funding such a placement. Once a decision has been made that an RTC is the offer of FAPE, a representative from the district will make that offer to the parent/guardian in the IEP meeting. The IEP should reflect why this was determined to be an appropriate offer. Typically, an RTC should not be offered without first consulting the Special Education Local Plan Area (SELPA) to determine if all other supports, accommodations, and placements have been tried for the student.

What are the next steps once the offer has been made?

If the parent/guardian is in agreement they will need to sign a release of information (ROI) to allow the LEA and the SELPA to begin looking for a residential treatment facility (Appendix B). Copies of IEPs, Psychoeducational reports, behavior plans, and other pertinent information will be needed to share with admissions staff at the RTCs so that they can understand the needs of the student. While this is happening the student will continue to receive their special education services from the LEA.

HUMBOLDT-DEL NORTE SELPA Offer of FAPE – SERVICES

Student Name Green, Daniel Birthdate 12/11/2002 IEP Date: 7/26/2016

The service options that were considered by the IEP team (List all): General Education with behavioral support, Specialized Academic Instruction (SAI) as a pull- out service, Educationally Related Intensive Counseling Services (ERICS), Residential Treatment Center (RTC).

In selecting LRE, describe the consideration given to any potential harmful effect on the child or on the quality of services that he or she needs: The team discussed options and agreed that the least restrictive environment to obtain educational benefit for Daniel is the RTC. The team has considered the potential harm of this educational placement: primarily being separated from family, living out of California to attend the RTC placement, and the lack of contact with general education peers. The team agrees that the benefits of the RTC in providing a safe educational environment for Daniel and his peers outweighs any potential harm.

What if the parent/guardian disagrees with the RTC as the offer of FAPE?

Just like with any disagreement between the LEA and the parent/guardian of a student who receives special education services, a request for Due Process can be filed. While this is occurring the student will remain in a “Stay Put,” where they receive the services from the last agreed-upon IEP. A parent/guardian who disagrees with an offer of a specific RTC, but agrees to the offer of an RTC as FAPE, will have to show at hearing that the specific RTC is inappropriate.

LOCATING A RESIDENTIAL TREATMENT FACILITY

How do we locate an appropriate RTC?

Assembly Bill 114 states that the LEA must ensure that each RTC meets the requirements of Section 3051 of Title 5 of the CCR and must maintain documentation supporting the facility’s status as a residential care facility that is either: (1) associated or affiliated with a California-certified NPS; (2) a California-certified nonpublic, nonsectarian agency (NPA); or (3) a vendor or contractor of the State Department of Mental Health, or any designated local mental health agency.

There are RTCs located all over the United States that specialize in different areas of need and serve a variety of different populations. To place out of California, LEA must show why all California certified RTCs will not be meet the student's needs prior to placing out of state. The SELPA Director, in collaboration with the SELPA RTC liaison, should be contacted and can be utilized to assist districts in locating appropriate RTCs for their students and assisting with the referral process. Once the parent/guardian has signed the ROI (Appendix B), the LEA can contact the SELPA for assistance.

What admissions requirements will the RTC have?

It is important to share copies of any relevant information (IEPs, psychoeducational reports, behavior plans, attendance, and behavioral data, etc.) with the individuals looking for an RTC placement for the student. This will ensure that the right type of placement is targeted and admissions staff from the RTCs can access this information so they better understand the student.

Once an RTC is identified and agreed upon, they will be additional paperwork for the school and family to complete prior to the student attending the RTC.

What should the IEP services: offer of FAPE page state once an RTC is agreed upon?

The LEA will want to communicate with a contact person at the RTC to determine appropriate services for the student. Likely, there should be individual and group counseling, parent and/or family counseling, specialized academic instruction, and transition services (if 16 years old and above). The following is an example of how a services page may look for a student placed in an RTC. The services pages are typically revised at a 30 day placement change IEP held by the LEA in collaboration with RTC staff. Services should be written through the student's next annual IEP date.

SPECIAL EDUCATION and RELATED SERVICES

Service: Specialized Academic Instruction	Start Date: 6/14/2016	End Date: 6/13/2017
Provider: Nonpublic school (NPS) under contract with SELPA or district	<input checked="" type="checkbox"/> Ind <input checked="" type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: 314 min served Daily	Location: Nonpublic residential school - outside California	
Comments: Service to be provided in NPS setting		
Service: Individual counseling	Start Date: 6/14/2016	End Date: 6/13/2017
Provider: Nonpublic school (NPS) under contract with SELPA or district	<input checked="" type="checkbox"/> Ind <input type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: 60 min served Weekly	Location: Nonpublic residential school - outside California	
Comments: Service provided in NPS setting		
Service: Parent counseling	Start Date: 6/14/2016	End Date: 6/13/2017
Provider: Nonpublic school (NPS) under contract with SELPA or district	<input checked="" type="checkbox"/> Ind <input type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: 120 min served Monthly	Location: Nonpublic residential school - outside California	
Comments: Family therapy is provided via skype or telephone 2x a month for 1 hour each session		
Service: Counseling and guidance	Start Date: 6/14/2016	End Date: 6/13/2017
Provider: Nonpublic school (NPS) under contract with SELPA or district	<input type="checkbox"/> Ind <input checked="" type="checkbox"/> Grp <input type="checkbox"/> Sec Transition	
Duration/Freq: 180 min served Weekly	Location: Nonpublic residential school - outside California	
Comments: Group therapy (counseling) provided a minimum of 3 times per week for one hour each session in the NPS setting		

UNILATERAL PLACEMENT

What is the responsibility of the LEA when a parent unilaterally places their student?

The LEA will need to discuss with the parent the circumstances around the parents placing their child in an RTC. The LEA can request to do updated assessments to determine if this is an appropriate offer of FAPE considering the students current needs. A IEP meeting should be called to discuss the student’s current placement and determine next steps. If the LEA does not agree RTC is an appropriate offer of FAPE, the LEA should follow-up any with a prior written notice to the parents detailing why the request for an RTC placement and/or reimbursement for such a placement is being denied. More information on this process is contained in the SELPA Procedural Manual.

If the LEA has made an appropriate offer of FAPE and it was not an RTC placement, IDEA does not require LEA to pay for placement of a child with a disability in an RTC by parents’ personal decision if the LEA has an appropriate placement offered. If this cannot be resolved between the LEA and the parents/guardians, either party can file for Due Process.

What is the responsibility of the LEA when a hospital unilaterally places a student?

Just like if a parent unilaterally places their student, the LEA will want to communicate with them about the events surrounding the students hospitalization. The IEP team members will need to recognize and consider the difference between medical necessity and educational need. Students may be hospitalized, placed through their insurance for stabilization purposes. This may not translate into educational need. It will be up to the LEA and IEP team to determine if an ongoing placement in an RTC will be necessary for the student to access their special education.

If a student is placed by a hospital and is not currently identified as a student who qualifies for special education the LEA will want to consider if the situation warrants “Child Find” and additional assessment to determine eligibility. If the LEA believes conducting assessments to determine if the student qualifies for special education is appropriate they will need to send a school psychologist to the RTC to assess the student.

What is the responsibility of the LEA if a parent or outside agency unilaterally places a student who is not on an IEP?

If a student who had not previously been identified as a student requiring special education is placed at a treatment facility, the LEA should consider if this would warrant a “Child Find” assessment to determine if the student would qualify for special education. The LEA will want to communicate with the family to determine reasons why the student was placed in order to determine if assessment is necessary. If the student was placed solely for purposed drug or alcohol rehabilitation that does not necessarily warrant assessment for special education.

Residential Treatment Center (RTC) Placement

RESPONSIBILITIES WHILE A STUDENT IS AT AN RTC

What is a Master Contract?

The Master Contract is an agreement between the LEA and the RTC regarding placement of the student and what services will be provided.

Does the LEA keep the student in Special Education Information System (SEIS)?

Yes, the LEA will want to allow the RTC staff access to SEIS for the student, but also keep access themselves. As many RTCs are out of state, not all RTCs will be familiar with SEIS. It will be important to designate a case carrier from the LEA to continue to manage SEIS, IEP paperwork, and meetings.

Who schedules and writes the IEPs and Behavior Plans?

This will most typically be a collaborative effort between the RTC and the case carrier from the LEA. The RTC will be able to give the case carrier progress on goals, data, guidance for new goals based on the environment and program. The RTC will likely have their own behavioral system in place and a plan for the student in that setting. Scheduling should occur so that both representatives from the LEA and the RTC can be in attendance either in person or via phone. The case carrier from the LEA will be the one to ensure that IEP meetings are scheduled and that IEPs are completed.

How does the student get re-evaluated for triennial IEPs?

The school psychologist from the LEA will be required to assess any student placed in an RTC for their re-evaluation and present the results at the student's IEP meeting.

How do we determine if a student is benefiting from their placement?

Each LEA that has a student in an RTC is responsible for measuring student's progress in the placement on at least an annual basis as part of the annual IEP review. The LEA representative should review the master contract and the IEP to ensure that all services agreed upon and specified in the IEP are being provided. RTCs are required by the master contract to annually evaluate the students to determine if they are making appropriate educational progress.

It is recommended that the RTC, LEA and SELPA collaborate on a regular basis through treatment team meetings. This will allow the LEA to keep track of their students' progress academically, behaviorally and therapeutically. The LEA will want to request that the RTC staff report on progress on goals which will also help the LEA to know if the student is benefitting from their placement. It is also recommended that the LEA hold IEP meetings every three months to determine if placement should change, as discussed below.

Will the LEA be informed of incidents that occur with the student?

Once a student is placed, a representative from the LEA will want to communicate with the RTC to determine how this type of information is shared. Some RTCs may send incident reports by email, have a data system the LEA can access or may report on incidents at monthly treatment team meetings. The SELPA Director should also be informed by the RTC of any incident reports, per the master contract.

What if the student's family moves out of the LEA district while they are placed in an RTC?

Whenever a student was placed and residing in an RTC prior to transferring into the Humboldt – Del Norte SELPA member LEA, the SELPA that contains the LEA that made the placement is responsible for funding 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. EDC § 56325

For high school students, what graduation requirements are used?

The LEA will want to keep track of their high school aged students credits and classes they are taking while they are placed at an RTC. In some cases the student may have the option of graduating with a diploma from the RTC. This will be something to be discussed with RTC staff through the IEP process. Most often the student is graduating from the LEA, and will need to meet graduation requirements from their home district. It will be the responsibility of the LEA to ensure the student is remaining on track for graduation while at the RTC and taking appropriate classes. Communicating regularly with RTC staff and checking in regarding their credits and current classes is important to ensure the requirements are met.

MEETINGS

What meeting requirements are there for students in an RTC?

Students placed in an RTC through the IEP process will have the same IEP meeting requirements as any other student receiving special education services. These include 30-day placement, annual, triennial and transition meetings. In addition to IEP meetings most RTCs also do monthly treatment team meetings where information on the students' progress and behavior is shared. It is recommended that the LEA have formal IEP meetings every three months to ensure the student is making progress on his/her IEP goals, and to determine if residential placement continues to be appropriate. As an RTC placement is the most restrictive placement, a student should not remain in this placement longer than needed for the student to receive a free and appropriate public education (FAPE).

Who sets up the meetings?

It is recommended that the LEA keep track of when IEP meeting dates are and collaborate with RTC staff to schedule them. The treatment team meetings are typically set up by RTC staff who will invite representatives from the LEA, the SELPA, and the family to participate. If the RTC does not have a general education teacher on site, it is the LEAs responsibility to ensure a general education teacher is available. If the LEA is going to excuse the general education teacher, proper excusal procedures must be followed.

Who runs the IEP meetings and keeps notes?

This should be discussed with the RTC prior to the meeting to determine who will be facilitating and managing IEP paperwork during the meeting. Keep in mind that not all RTCs are going to be as familiar with SEIS and IEP paperwork from that system. The representation from the RTC at that meeting should be able to speak on present levels, special factors, progress on goals and proposed new goals in that setting, as well as behavioral supports and services.

How is a treatment team meeting different from an IEP meeting?

A treatment team meeting occurs more frequently (monthly or more depending on the student) and is for discussing progress, treatment, and any changes to the student's program. It will not include changes in placement, goals, or services that are a part of the IEP process.

How does the LEA navigate communicating with all the team members?

Once a student is placed in an RTC, the LEA should appoint a representative to act as the case manager for that student. This person could be a case carrier, school psychologist, administrator, or special education director. The RTC likely has many different people involved in the student's treatment. It is recommended that the LEA case manager obtain contact information and roles from the different people at the RTC with whom they will be interacting. Having this information will help know who to contact for a variety of different needs associated with an RTC placement. See Appendix E for a template of a contact sheet.

VISITATION

How often do parents/guardians visit their student?

Parent visitation to the child's placement as well as visits home by the student are an important part of the therapeutic treatment program of an RTC. The purpose is to engage the parent in the treatment process and to build capacity for reunification of the student to the home environment. Typically such travel is associated with initial placement, subsequent therapeutic visits to meet with the child and his or her therapist, therapeutic visits home, and/or discharge. Such arrangements must be preapproved by the LEA through the IEP process. See Appendix G for visitation guidelines and Appendix H for a home visit planning worksheet.

Who sets up transportation and lodging for visits?

The LEA is responsible for setting up transportation and lodging for visits. It is recommended that the visits be coordinated with the RTC during treatment team meetings and/or IEPs to ensure that it is an appropriate time for visitation. See Appendix G for visitation guidelines.

Do representatives from the LEA visit students?

It is recommended that representation from the LEA visit their student while placed at an RTC every six months or more frequently depending on student's needs. This gives the LEA the opportunity to meet staff, view the facility, and check in with their student. A representative from the SELPA will also typically visit the RTC to ensure IEP compliance and progress.

Evaluation, Discharge, and After Care

RE-EVALUATION OF PLACEMENT

How do we determine if a student is ready to transition back home?

This is a very important decision that should be carefully discussed and considered. By taking part in regular team meetings and communicating with staff from the RTC, the LEA should be made aware of when the RTC feels that a student may be ready to transition back. The team can look at progress on goals, credits, behavioral data and observations to make a determination about placement. It is recommended that the student have a successful home visit prior to transitioning completely out of an RTC placement.

Does a full re-evaluation need to be done before a student can come back to the LEA?

Not necessarily. The LEA could choose to re-evaluate certain areas if they felt it is necessary to do this to help guide conversation about a student returning to a less restrictive environment, but it is required.

What steps do we need to take to transition a student back?

Once it has been decided that a student is ready to transition back to the LEA, it will be important to prepare for that transition and the supports that will be in place once they get back. The LEA representative will want to get information from the RTC about the student's behavior, credits and academic progress, and necessary supports (ongoing counseling, family therapy, community supports, behavior plan, etc.) so that they can offer an appropriate educational placement upon their return. An IEP will need to be scheduled and a new offer of FAPE will be determined. Transportation will need to be arranged by the LEA for the student to return home. The LEA should draft a transition plan to assist and support the student in the transitional period.

DISCHARGE FROM AN RTC

How does the discharge process work?

When a child is ready to be discharged from the RTC placement, a request is made to the LEA to schedule an IEP meeting to return the child to a placement within the LEA. A copy of the discharge summary will be given to the LEA's appointed person.

What if a parent removes his/her child from the RTC before it is recommended?

It is possible that a parent will choose to remove his/her child from the RTC against the recommendation of the RTC and the IEP team. It is recommended that an IEP be held to discuss and document why the school and RTC continue to feel that an RTC is the appropriate offer of FAPE. The LEA can choose to file for Due Process if they are in disagreement with the parent about the level of services that the student needs. In that case a "Stay Put" would go into effect; however, the parent could go to the RTC and discharge the student at any time. If this is the case, it is recommended that an IEP be held immediately upon return and an interim placement with a start and end date be provided as the offer of FAPE using the following language:

"The District contends the offer of FAPE for [STUDENT'S NAME] is [RTC WITH SERVICES IN IEP DATED ____]. However, parent removed student from RTC. Pending a determination by OAH as to whether the District's offer of a RTC is FAPE, the District makes the following temporary offer of services, which is not intended to become stay put, but merely is an offer of placement intended to serve student while the parties await a determination by OAH."

See Appendix C for an example of a Prior Written Notice (PWN) for when a parent makes a statement about wanting to remove his/her child from an RTC. If the parent completely revokes consent for special education in tandem with removing his/her child from an RTC, the LEA must immediately cease provision of services, including transportation from the RTC and provide the parent with a PWN regarding the revocation, Appendix D.

What happens if a student signs him/herself out of an RTC once he/she turns 18?

Once a student reaches the age of majority and is conserved, he/she is able to make decisions for him/herself regarding his/her special education. This also means that they can choose to sign themselves out of RTCs if they do not want to continue with treatment. If a student has indicated that he/she will choose to sign him/herself out of the RTC upon turning 18, every effort should be made to encourage them to remain in placement. If the adult student chooses to leave the RTC the student can choose to sign themselves out of special education completely, or work with the school district on an alternate placement to be decided through the IEP process.

STUDENT AND FAMILY AFTERCARE

What do we need to have in place to support a student transitioning back from an RTC?

The LEA will want to communicate with the RTC treatment team to know what supports will be helpful or necessary for the student when they return back to the LEA. A transition IEP will be held, at which time the LEA will want to create an offer of FAPE to support the student in a less restrictive environment. It will be important for necessary school staff to be made aware of the support the student needs to ensure a smooth transition.

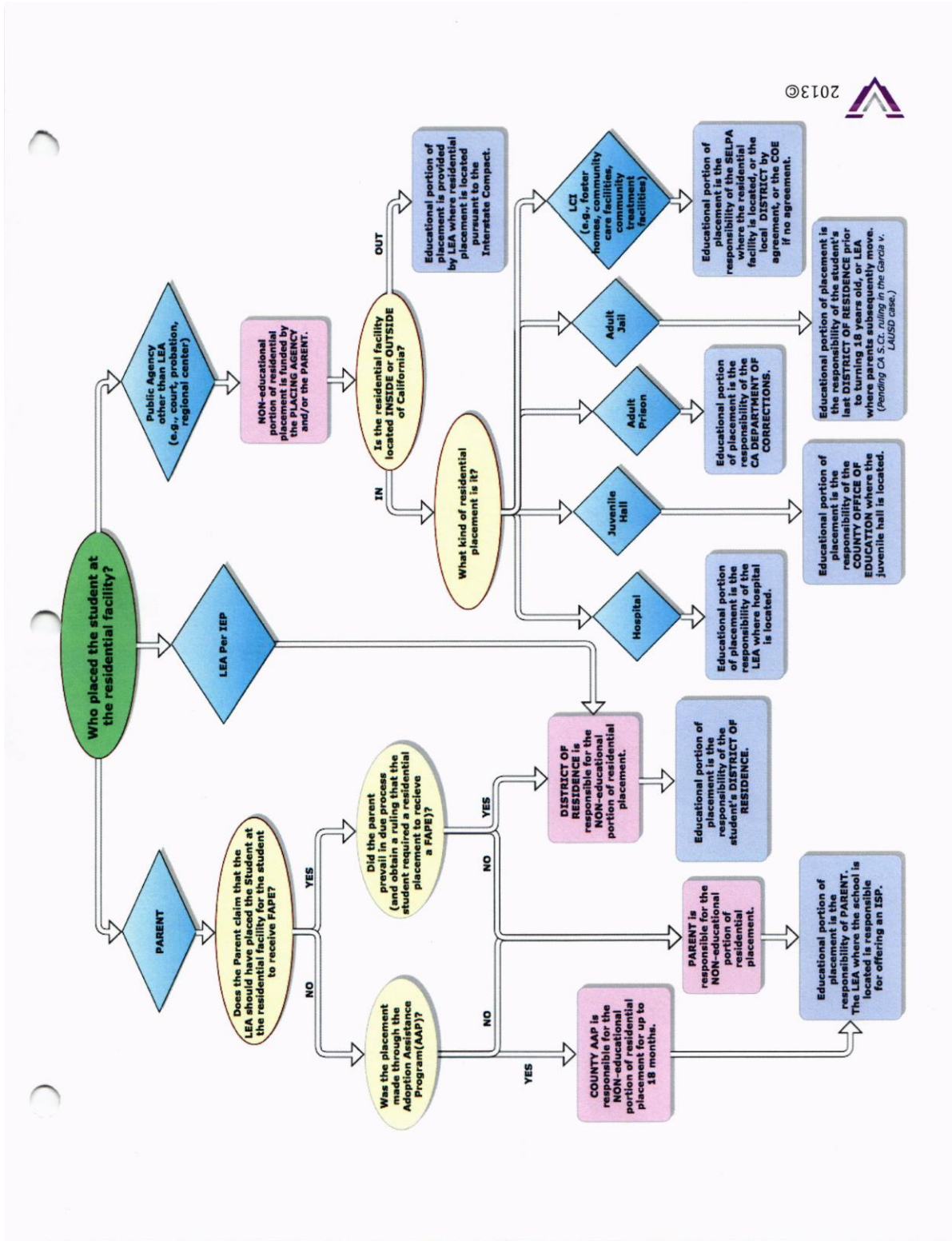
It is also important to note that the parents of your student may have fears about their child returning back home and not receiving the same level of support that they were getting while in an out of home placement. It will be important to work to support the parents as well, as the student in making this significant transition.

What supports exist to support the students and families in the community?

There are supports provided through special education such as Specialized Academic Instruction, ERICS counseling services, and behavioral intervention services that may be considered for the student. The LEA will also want to consult with the parent to see what other services they may qualify for in the community. These could include AOD services, outside therapy, family therapy, transition services, and Regional Center Services, among others. See Appendix I for a list of potential resources.

APPENDIX A

RTC FLOWCHART



APPENDIX B

CONSENT TO RELEASE OR EXCHANGE INFORMATION (ROI)

CHILD'S NAME: _____ DATE OF BIRTH: _____

DISTRICT/SCHOOL: _____

Written parental consent shall be obtained before personally identifiable information is disclosed in writing or orally to anyone other than authorized employees specified by the school district. You need to know that:

- You choose which agencies shall exchange information.
- You may refuse to sign this exchange form.
- Information about your child and family is strictly confidential. Your child's school maintains records specifying the source of the information, the date and purpose of any disclosure, and with whom information was shared.
- These records will help in evaluation, assessment and IEP development for your child.
- You have the right to review records.
- Your rights are preserved under: Title 34 Code of Federal Regulations; Family Education Rights Privacy Act of 1974, Title 20 of the United States Code, Section 1232 (g), Title 34 Code of Federal Regulations, Section 99.
- This consent is good for one year unless you withdraw your consent before that time.

I give permission for _____ to exchange information relevant to my child's educational needs with the following agency/agencies. Please sign below to permit the exchange of information about your child with the specified agency/agencies.

707-441-2051 _____ HDN SELPA _____ Phone #
Fax # Name of Professional or Agency

_____ RTC Admissions Personnel _____
Phone # Fax # Name of Professional or Agency

_____ _____ Phone#
Fax # Name of Professional or Agency

A photocopy of this form shall be as valid as the original. I understand that I am to receive a copy of this authorization.

Parent/Guardian Signature: _____ Date: _____

Parent/Guardian Signature: _____ Date: _____

APPENDIX C
PRIOR WRITTEN NOTICE (PWN)
Humboldt – Del Norte SELPA

Provided to parent prior to district initiation or refusal regarding change of identification, evaluation, educational placement, or provision of free appropriate public education

Student Name: _____ **Date of Birth:** _____ **Date:** _____

This notice is to inform the parent(s) of the above named student regarding the school districts

Proposal to initiate or change the

Identification **Evaluation** **Educational Placement** **Provision of a free appropriate public education to your child**

This notice includes a description of the proposed action, an explanation of why the district proposed to take this action, a description of any other options that were considered and the reasons why those options were rejected, and other factors that are relevant in this proposal. Your written permission must be given before we assess your child to determine eligibility. You have the right to be familiar with the assessment procedures and type of tests that may be given to your child. After the assessment is completed, you will be notified in writing of a meeting to discuss the results of the evaluation.

Refusal of your request to initiate or change the

Identification **Evaluation** **Educational Placement** **Provision of a free appropriate public education to your child**

This notice includes a description of action being refused, an explanation of why the district refused to take this action, a description of any other options that were considered and the reasons why those options were rejected, and other factors that are relevant to this refusal.

Description of proposed or refused action: In a letter received by the school district on *[INSERT DATE]* you requested that you no longer wanted your child placed at a Residential Treatment Center because *[INSERT REASON]*. You also asked that your child be returned to the school district and *[INSERT REQUEST FOR EDUCATIONAL PLACEMENT IF STATED]* at this time the district continues to extend its offer of FAPE as stated in the IEP dated *[INSERT DATE]*.

Reason(s) for proposed or refused action: The district believes that a Residential Treatment Center is Free and Appropriate Public Education (FAPE) and the Least Restrictive Environment (LRE) for your child. We continue to believe that your child requires the level of supervision and mental health services available within the RTC setting.

Description of evaluation procedures, tests, records, or reports used in deciding to propose or refuse this action: *[INSERT DATA TO SUPPORT THE DISTRICTS ACTION (i.e. behavioral data, incident reports from the RTC, information from treatment team meetings, progress on goals, etc.)]* This data does not support movement to a lesser restrictive school environment at this time.

Description of other options considered and reasons for rejecting them: *[INSERT IF APPLICABLE]*

Other factors relevant to the proposal or refusal: The district will offer an IEP meeting on *[INSERT DATE]* to discuss your child's progress, goals and plan for coming back to a lesser restrictive environment in the future.

You have protection under the procedural safeguards of Part B of the IDEA. If you would like a copy of the Procedural Safeguards please contact the district and a copy will be sent to you. If you would like further information about your rights or the proposed action and/or referral please contact:

Print Name and District Contact _____ Position _____

E-mail Address _____ Phone _____

APPENDIX D

PRIOR WRITTEN NOTICE (PWN) EXAMPLE: REVOCATION OF SPECIAL EDUCATION

[PLACE ON DISTRICT LETTERHEAD]

[DATE]

[PARENT/GUARDIAN NAME]

Address 1

Address 2

Re: Revocation of Consent for Provision of Special Education for [STUDENT NAME]

Dear [PARENT/GUARDIAN NAME]:

This letter responds to your [DATE], letter, in which you revoked consent for [STUDENT NAME], a minor for whom you hold educational rights, to receive special education and related services from the [DISTRICT NAME] (“District”). Please consider this the District’s response to your request as required by 34 C.F.R. sections 300.300 and 300.503.

Based on the receipt of your revocation of consent, the District will discontinue all special education and related services for [STUDENT NAME] on [DATE]. After that date, [STUDENT NAME] will no longer receive the educational supports contained in her [DATE] IEP, which include but are not limited to: (*LIST PLACEMENT, SERVICES, ACCOMMODATIONS, MODIFICATIONS THAT STUDENT WILL NO LONGER RECEIVE.*) Beginning on [DATE], [STUDENT NAME] placement will be at [SCHOOL NAME] in general education classes without any special education supports. [STUDENT NAME] will have access to only those supports available to general education students. I want to note that discontinuation of special education, as required by law pursuant to your [DATE], revocation letter, means that the District cannot provide [STUDENT NAME] with *any* special education or related services. This includes transportation, which is a related service, as described in 34 C.F.R. § 300.34(c)(16). Specifically, 34 C.F.R. § 300.300(b)(4) provides that the District “[m]ay not continue to provide special education and related services to the child” . . . “[i]f, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services.” Accordingly, the District will ensure that [RTC NAME] discontinues all special education and related services, including academic instruction and therapy, as of [DATE]. The District will cease paying for her room and board at [RTC NAME] as of [DATE], in order to give you time to make travel arrangements for [STUDENT NAME].

Please be advised that after [DATE] [STUDENT NAME] will become a general education student and will no longer be entitled to the special education and related services and protections provided under the Individuals with Disabilities Education Act, “IDEA”, and related provisions in the California Education Code. [STUDENT NAME] will be treated as a general education student in all respects, including discipline, testing and graduation. As a result, [STUDENT NAME] disability will not be taken into consideration when determining appropriate disciplinary action and she will not be entitled to the IDEA’s discipline protections.

Your revocation of consent releases the District from liability for providing your child with a free appropriate public education. If, in the future, you would like your child to receive special education and related services from the District or be considered as an individual with a disability under Section 504 (34 CFR § 104.32), please contact us. The District will treat such a request as a request for an initial evaluation.

The District would like to meet with you on [DATE], to discuss your decision and its potential impacts. However, you are not obligated to meet with us and any meeting will not delay or deny the discontinuation of special and related services for

your child. Please contact my office at (*INSERT YOUR CONTACT INFO*) to confirm you will attend the meeting. If I do not hear from you, I will assume that you do not wish to meet.

I want to emphasize that the District believes that [STUDENT NAME] needs their current services and placement to receive a Free Appropriate Public Education (“FAPE”). [INSERT REASONS FOR DISTRICT OFFERING RTC AS FAPE]. The District has considered local options and does not believe that there is a placement locally that can meet [STUDENT NAME] needs.

I have enclosed a copy of [STUDENT NAME] (*DATE OF MOST RECENT IEP*) for your reference, as well as a copy of the District’s parental right and procedural safeguards. Please feel free to contact me with any questions you may have at this time.

Please find attached a copy of your Procedural Safeguards, which describes your parental rights under Part B of the IDEA. If you would like further information about your rights as a “parent,” or about this letter, please contact me at [PHONE NUMBER].

Sincerely,

[INSERT NAME, TITLE AND CONTACT INFO]

Enc: Procedural Safeguards

APPENDIX E

RTC CHECKLIST

This checklist is only a guide.

All decisions should be made by the IEP team during a meeting at which the parents are present and participating.

CONSIDERING PLACEMENT

- IEP Team has identified that student may require an RTC. Conducting updated assessments has been discussed and completed if necessary.
- LEA IEP Team has met, discussed, and documented within the IEP the potential benefits as well as harmful effects of placing the student in an RTC and has offered an RTC as FAPE.
- Parent is in agreement with exploring RTC placement as an option and has signed ROI. (Appendix B)
- IEP team communicated with parent regarding a follow up IEP meeting once a placement is secured.
- LEA continues to serve student within the district while an RTC is being considered.
- Representative from LEA has contacted the Humboldt-Del Norte SELPA with a request to assist in locating an RTC.
- Copy of signed ROI has been sent to the SELPA office along with copies of the following:
 - Current IEP
 - Current Behavior Plan
 - Most recent Psychoeducational Report
 - Most recent Socio-Emotional assessments
 - Behavior Log
 - Attendance data
 - Parent contact information

RTC PLACEMENT

- RTC(s) has been located
 - Name: _____ Location: _____
 - Name: _____ Location: _____
 - Name: _____ Location: _____
- Parent contacted and placement options were discussed.
- Parent completed RTC admissions paperwork.
- RTC admission is secured.
 - Name: _____ Location: _____
- LEA requested contact information and completes RTC Contact Sheet. (Appendix E)
- LEA set up transition IEP meeting, representatives from RTC are invited.
- LEA consulted with RTC regarding services that will be provided. All services on the students IEP will be provided by the RTC.
- LEA changed setting in SEIS to reflect RTC/ NPS placement.
- LEA changed services, providers and minutes in SEIS to reflect RTC/ NPS program.
- Transportation guidelines discussed with parent and RTC, frequency determined by IEP Team. (Appendix G)
- Transportation set up for student to attend RTC.

DURING PLACEMENT

- Appropriate RTC staff given access to student on SEIS.
- Team/treatment meetings are attended by LEA representative in person or via phone.
- SELPA made aware of any meetings for student in RTC placement.
- LEA collaborates with RTC staff to schedule any necessary IEP meetings, at least once every three months.
- School psychologist sent from LEA to assess for Triennial Assessments. (if necessary)
- Credits towards graduation are reviewed on a regular basis. (High School Only)
- Transportation and lodging arranged by LEA for visitation, frequency determined by the IEP Team. (Appendix G and H)

RETURNING FROM RTC

- LEA communicated with RTC regarding proposed release date from RTC.
- LEA scheduled a home visit for the student prior to release from RTC.
- Transportation set up by LEA for return home.
- Transition IEP scheduled.
 - New offer of FAPE presented and consented to by parent/guardian.
 - Support services/community resources located and set up.
 - Transition plan drafted and consented to by parent/guardian.
- Discharge paperwork received from RTC.

SELPA CONTACT INFORMATION

Name	Position	Phone	Fax	Email
Mindy Fattig	SELPA Director	707-441-2051	707-445-6124	mfattig@hcoe.org
Heather Quigley	RTC Liaison	707-601-5834	707-445-6124	hquigley@hcoe.org
Donna Lockwood	SEIS Assistance	707-599-1673	707-445-6124	dlockwood@hcoe.org
Marlaine Rechelluul	Financial/ Billing	707-441-2073	707-445-6124	mrechelluul@hcoe.org

NOTES:

APPENDIX F

RTC INFORMATION TEMPLATE

Student Name:	Annual IEP Date:	
LEA Contacts		
LEA Representative/ Case Carrier	Phone	Email
LEA School Psychologist	Phone	Email
LEA Special Ed Director	Phone	Email
LEA Fiscal/ Billings Contact	Phone	Email
RTC Contacts		
RTC – Name of Facility		
RTC – Address	Phone	Email
RTC – Admission Contact	Phone	Email
RTC – Student Case Manager	Phone	Email
RTC – Program Manager/Director	Phone	Email
RTC – Therapist/Psychologist	Phone	Email
RTC – Financial/Billings Contact	Phone	Email
RTC – Transport Contact	Phone	Email

SELPA Contacts		
SELPA Director	Phone	Email
Mindy Fattig	707-441-2051	mfattig@hcoe.org
SELPA RTC Liaison	Phone	Email
Heather Quigley	707-601-5834	hquigley@hcoe.org
HCOE/ SELPA Billing	Phone	Email

SEIS Access:

Name	Role

Online Reporting System (RTC):

Username:	Password:
Web address:	

RTC Contact for scheduling team meetings/ IEPs:

Name	Role

RTC will inform LEA of progress/ incident/ changes in program via:

- Phone
 Data System
 Email
 Meetings

APPENDIX G

GUIDELINES FOR TRAVEL REIMBURSEMENT

For Residential Non-Public Schools (NPS) and Residential Treatment Centers (RTC)

Your child may be enrolled in a residential school outside of Humboldt-Del Norte SELPA. You or your child's travel associated with the child's initial placement, subsequent therapeutic visits for you to meet with your child and his/her therapist at the residential nonpublic school (NPS) /residential treatment center (RTC), or your child's therapeutic visits home may be reimbursable by the Local Education Agency (LEA). The determination of the number of funded round trips per fiscal year (July 1 – June 30) is determined by your child's Individual Education Team (IEP) in collaboration with the therapeutic staff at the NPS. Typically, up to four trips is considered a guideline for IEP teams. More visits or fewer visits may be necessary based on the therapeutic needs of the student as determined by the IEP team in conjunction with the student's treating therapist/s. Reimbursement will be provided for transportation, lodging, and related costs as specified below for up to two (2) parents (as defined by the Education Code).

GUIDELINES FOR REIMBURSEMENT

- Parent is responsible for making all travel arrangements unless the local LEAs reserved the right to do so.
- Please confirm with your child's LEA if they will be purchasing tickets on your behalf or if you will be purchasing tickets and then reimbursed by the LEA.
- Parent and the NPS should notify the LEA at least thirty (30) calendar days in advance of the trip and complete a Travel Authorization Form provided by LEA.
- The LEA will contact parent and confirm that trip is approved and eligible for reimbursement.
- Purchase of airline tickets must be made twenty-one (21) days in advance of travel.
- Parent is responsible for submitting original itemized receipts for allowable expenditures.
- Parent should keep a copy of the itemized receipts and documents for personal records.
- Claim form and original documentation are to be submitted to the LEA within thirty (30) calendar days after travel.

ALLOWABLE EXPENDITURES FOR REIMBURSEMENT

- Airfare – Coach class-submit passenger ticket receipts for student and/or parent(s) indicating date, passenger name, destination, and cost. If a trip is postponed, reservations should be cancelled immediately.
- Automobile mileage reimbursement– allowance for transportation by private automobile to and from the residence of the student and the NPS/RTC at the IRS approved rate or air fare coach class; whichever is most economical. Mileage reimbursement may not exceed the estimated costs of roundtrip airfare and car rental.
- Hotel – itemized original payment documentation. Contact NPS/RTC for recommendations re: suggested hotels. Hotels will be limited to the federal Government Services Administration rate for the area.
- Rental car agreements and fuel receipts – not to exceed compact/economy rental rate – itemized original payment documentation. (Maximum two day car rental) Allowable car rental fees: daily rate, airport concession fee, and taxes only. Pre-paid fuel will not be reimbursed.
- Meals – reimbursement is dependent on each LEAs individual policy.
- Airport Parking – receipt required.
- **Shuttle, fly-a-way, taxi to and from airport** – receipt required and not to exceed \$20.00 on way.

TRAVEL REIMBURSEMENT CLAIM FORM

NPS Student: _____ Non-Public School/Residential: _____
 Name of Person Submitting Claim: _____ Relationship to Student: _____
 Address: _____ Phone: _____
 Person Traveling: _____ Signature of Person Traveling: _____
 Beginning Date of Travel: _____ Ending Date of Travel: _____ Family Therapy Day(s): _____

NON-ALLOWABLE EXPENDITURES FOR REIMBURSEMENT

- Class/Business Class airfare
- Cost of checked baggage
- Travel expenses for siblings, extended family, friends, or advocates
- Mid-size, intermediate or luxury class car rentals
- Any additional car rental fees such as insurance coverage, damage waiver, navigation system, fuel costs by car Rental Company
- Entertainment related expenses (i.e. amusement park, sporting events, movies, etc.)
- Alcoholic beverages, snacks, and tips
- Weekend trips
- Visitations to NPS/RTC sites prior to placement
- Altered or falsified receipts constitute fraud, and therefore all request for trip expense reimbursements will be made null and void

TRANSPORTATION (Air, Car Rental, Shuttle, Taxi)	Day 1 Date:	Day 2 Date:	Day 3 Date:
Type:	\$	\$	\$
Type:	\$	\$	\$
Type:	\$	\$	\$
Type:	\$	\$	\$
STANDARD HOTEL RATE			
	\$	\$	\$
ADULT DAILY MEAL ALLOWANCE			
Limits per adult per day:			
Breakfast: \$ 7.00	B: \$	B: \$	B: \$
Lunch: \$11.00	L: \$	L: \$	L: \$
Dinner: \$23.00	D: \$	D: \$	D: \$
OTHER RELATED EXPENSES			
1.	\$	\$	\$
2.	\$	\$	\$

All requests for reimbursement must be accompanied by itemized original dated receipts.

- No reimbursement shall be made without such receipts
- Receipts must specify date and the exact cost of each item for which reimbursement is required.
- Organize receipts by date and submit no later than thirty (30) days after travel
- Keep copies for your files.
- Allow 45 business days for review and receipt of reimbursement.

**APPENDIX H
HOME VISIT PREPARATION CHECKLIST**

Use this form to assist in planning and organizing a home visit for students placed in an RTC
Home visits are given by approval from RTC staff and set up by the LEA

Student Name: _____ Placement: _____

RTC Contact: _____ RTC Phone: _____

Home pass destination and contact info: _____

Questions to ask RTC prior to home visit:

- Dates approved for home visit: _____
- Home visit approved by: _____
- Goal(s) of home visit? _____

- Family therapy occurred to prepare student for visit? _____
- Restrictions established for home visit (e.g. social media, curfew, etc)? _____

- Any concerns noted by family or RTC (e.g. packing all belongings, saying goodbyes at RTC, drug use while at home, etc)?

Travel Information:

Home Flight:

Departing Airport:	_____	Departure Time:	_____
Connecting Flight(s):	_____	Connection Time(s):	_____
Destination Airport:	_____	Landing Time:	_____

Who will be meeting student at Airport: _____ Contact Info: _____

Return Flight:

Departing Airport:	_____	Departure Time:	_____
Connecting Flight(s):	_____	Connection Time(s):	_____
Destination Airport:	_____	Landing Time:	_____

Who will be meeting student at airport? _____ Contact Info: _____

IF THE STUDENT DOES NOT MAKE IT TO THEIR FINAL DESTINATION, IT IS IMPORTANT THAT THE LEA AND RTC BE INFORMED IMMEDIATELY.

Contact at RTC: _____ Contact Info: _____

Contact at LEA: _____ Contact Info: _____

The RTC has been informed of the need to contact the above LEA rep? YES NO

By Who?: _____ Date: _____ Time: _____

APPENDIX J

LOW INCIDENCE POLICIES & PROCEDURES

As part of the Local Plan submitted to the State, each SELPA shall describe how specialized books, materials, equipment and services will be distributed within the SELPA. This policy has been developed to provide a summary of legal and local requirements and guidelines for students with low incidence disabilities. In addition to this policy, all requirements outlined under the Annual State Low Incidence Funding Update will be observed.

SUMMARY OF LEGAL REQUIREMENTS

Education Code Section 56836.22 provides for funds to purchase “specialized” books, materials and equipment as required under the student’s individualized education program (IEP) for students with low incidence disabilities as defined in Section 56026.5 (hard of hearing, deaf, deaf-blind, visually impairment, or severe orthopedic impairments, or any combination thereof).

As a condition of receiving these funds, the SELPA shall ensure that:

- the appropriate books, materials and equipment are purchased
- the use of items is coordinated as necessary
- the books, materials and equipment are reassigned within the SELPA once the student that originally received the items no longer needs them.

Special supplies and equipment purchased with State funds are the property of the State and shall be available for use by individuals with exceptional needs throughout the State. The Clearinghouse for Specialized Media and Technology (CSMT) is available to facilitate the distribution of unused materials and equipment.

In addition to the equipment fund, annually, the State Budget Act may appropriate funds which shall be used to provide specialized services to pupils with low incidence disabilities.

RESPONSIBILITY

Low Incidence funding is legally the responsibility of the SELPA, including accountability of how the funds are used and reassignment of specialized books, materials and equipment within the SELPA and sharing with other SELPAs. To meet this responsibility, a Low Incidence Committee has been established which is comprised of educators knowledgeable about low incidence disabilities. The Humboldt – Del Norte SELPA Low Incidence Committee has established procedures and guidelines for purchases through the Low Incidence fund.

The Low Incidence Committee may include:

- Specialist for the visually impaired
- Specialist for the orthopedically impaired
- Specialist for the Hard of Hearing or Deaf
- Speech/Language Pathologist
- Audiologist
- Teacher or Specialist knowledgeable in assistive technology
- SELPA Administrator
- SELPA Program Coordinator

ELIGIBILITY

Funds may be used for all students with the Low Incidence disabilities as defined in law, for both primary and secondary eligibilities. Some students counted as having an orthopedic impairment may not be eligible because they do not have a “severe orthopedic impairment” as per the definition of Low Incidence disabilities in Education Code 56026.5. Students who have severe orthopedic impairments require highly specialized services, equipment and materials per Education Code Section 5600.5(b).

Education Code Section 56320(g) requires that persons knowledgeable of that disability shall conduct the assessment of a pupil with a suspected low incidence disability. A low incidence disability does not guarantee the use of low incidence funds. The IEP team reviews assessment data and determines the most appropriate items or services needed to address the student’s unique educational needs. These may, or may not be “specialized.” Items, which are found in most classrooms, would not be acquired through low incidence funds.

LOW INCIDENCE GUIDELINES

These guidelines were developed for LEAs serving students with severe low incidence disabilities who require specialized services and/or equipment and specialized materials to benefit from education. These students have the potential to pursue the LEA’s general, parallel, or adapted course of study.

A. Low Incidence Funding (LIF) Parameters

1. Low Incidence Funds shall not be used for purchase of non-adapted computers and toys.
2. Requests for items for individual students that are \$100 and over can be submitted for funding. Items under \$100 are the responsibility of the LEA to purchase.
3. Equipment purchased with LIF funds is the property of the State of California and is managed by the Humboldt – Del Norte County SELPA.

B. Procedures

1. **Determine Eligibility:** The IEP team determines eligibility for low incidence disability. The Low Incidence eligibility must be documented on the IEP as a primary or secondary disability.
2. **Determine Student Needs:** The IEP team determines the student’s educational needs for item(s) through educational assessment and documentation.
 - a. Educational Assessment
The personnel who assess the student shall prepare a written report, or reports as appropriate, of the results of each assessment. The report shall include, but not be limited to the need for specialized services, materials, and equipment for students with low incidence disabilities.
 - b. IEP Documentation: The requirements must be written into the IEP but are not limited to the following:
 - How the item will assist the student’s instruction in accordance with the IEP.
 - How often the item will be used or is needed.
 - How the item facilitates participation in the classroom.
 - Specific projected student outcomes.
 - Goal related to the Low Incidence service and or equipment.
 - Identification of personnel who will provide support to student and will monitor and inventory adapted equipment and FM System (List position/title).

3. **The LI Committee Member will complete the “Low Incidence Equipment Request” Forms:** All current forms for submitting a request to the LIF committee for purchase of, or reimbursement for, equipment are available on the SELPA website (www.hdnselpa.org). Revisions/updates are posted as necessary. The LEA must sign the request form. Include accurate ordering information including tax and shipping.
4. **Attach Current Annual IEP:** IEP must be signed and legible. Attach amendment IEPs as appropriate.
5. **Attach all Documentation:** Reports from OT, PT, audiologist, VI specialist or speech/language pathologist must be submitted.
6. **Request Packet:** Will be brought to the LI Committee and after approval, the request packet will be given to the SELPA Director. Keep a copy of the request form for your records.

C. Cautions

1. Do not list specific items in the student’s IEP using specialized brand names. Goals should be addressed generically. What the IEP must show is that the student has a unique educational need directly related to the low incidence disability and that this need can only be met with specialized books, materials, equipment and services. Goals need to be written to address the unique educational needs, not the desired items or service.
2. If the Annual IEP goals do not specifically address this educational need, then an amendment IEP with goals that reflect the need for specialized books, materials, and equipment must be written and submitted.
3. There is no guarantee of approval by the Low Incidence Committee. Once specific items are listed on the IEP, the district is ultimately responsible for purchasing the equipment.

D. Low Incidence Committee Approval Process

1. The district/program will receive an approval or denial response after the meeting. Notation of discussion or reason for denial will be made by the SELPA Director. The committee encourages communication if further information is needed.
2. Purchasing the LI Item: Once approval is granted, the SELPA will process the purchase order. An *inventory tag* must be attached to equipment by designated SELPA personnel and identify equipment as LIF with permanent marker. An inventory tag number will also be recorded on the P.O. by SELPA personnel.

E. Student Movement

1. **Student Moves Into the SELPA:** When a student moves into the LEA with low incidence equipment already purchased for the student in their last placement, it is the responsibility of the LEA of attendance to secure and document that the equipment be transferred.

If equipment is sent with the student an inventory form should be completed and sent to the SELPA so it can be put into the Low Incidence Inventory database.

2. **Student moves out of SELPA:** Per CDE FAQs about LIF funds: “if the books, materials and equipment are still needed by other students with low incidence disabilities in your SELPA, there is no requirement to send it with the student who moved. Providing these resources is the responsibility of the SELPA where the student now resides. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials. The California Department of Education may be contacted for

assistance in locating another SELPA that has need of the unused equipment, books or materials.”

3. **Student graduates from high school:** A graduating high school student who has a low incidence disability cannot use the specialized equipment purchased for him by his SELPA through low incidence funds in college. To do so would be a gift of public funds which is a violation of law. Pursuant to Education Code 56822 “Books, materials and equipment purchased with low incidence funds remain the property of the state. Since the student has graduated from high school, he is no longer eligible to received special education services from your SELPA. If your SELPA no longer has use for the books, equipment or materials the California Department of Education should be notified so that we can find another SELPA that has need of these resources. If the student needs similar equipment upon graduating or aging out, he/she should contact the Department of Rehabilitation or Regional Center.

F. Equipment

1. **Lost, damaged by negligence or stolen equipment:** It is the responsibility of the LEA to replace the equipment. The replaced equipment becomes the property of the LI inventory.
2. **Item No Longer Needed:** If the item(s) has been purchased for one student and is no longer being used by that student, notify the SELPA office. The item can be reassigned to another student who is LI eligible. The IEP for that student must indicate the need for LI equipment.
3. **IEP teams may want to recommend a trial basis on a piece of equipment:** This can be accomplished through a lease agreement with the vendor prior to purchase.

G. Management Information Documentation:

An IEP team member will ensure that the student is listed with a Low Incidence disability on the MIS (currently SEIS) through SELPA.

H. Definition of Low Incidence Disabilities

1. Visual Impairment

To be eligible for special education, a “pupil has a visual impairment which, even with correction, adversely affects a pupil’s educational performance.”

When an assessment of a student with a visual impairment determines that he or she has educational needs that cannot be met without special education and related services, the student is provided with instruction, specialized services and materials and equipment in accordance with his or individualized education program (IEP).

The term *visual impairment* includes, for educational purposes:

- Students who have functional blindness (who rely basically on senses other than vision as their major channels for learning).
- Students with low vision (who use vision as a major channel for learning).
- A visual impairment that does not include perceptual or visual motor dysfunction resulting solely from a learning disability.

2. Severe Orthopedic Impairment

The term orthopedic impairment includes those impairments caused by congenital anomalies, diseases, and other conditions.

Conditions resulting in severe orthopedic impairments include, but are not limited to: cerebral palsy, muscular dystrophy, spinal bifida, spinal cord injuries, head traumas, juvenile rheumatoid arthritis, and tumors.

- These conditions may improve, remain stable, or deteriorate; and changes in characteristics may occur at varying rates.
- A severe orthopedic impairment is persistent and significantly restricts an individual's normal physical development, movement, and activities of daily living.

As a result, this impairment may affect the pupil's educational performance. Accompanying sensory, intellectual, behavioral, learning, and medical problems often occur that may affect the pupil's school performance.

3. Hearing Impairment

The student with a hearing impairment is one whose hearing loss adversely affects his or her developmental growth or educational performance, or both, to such an extent that special education and related services are required. Hearing impairment is defined as an impairment which is permanent that adversely affect an individual's:

- Expressive and/or receptive communication.
- Developmental growth, and or educational performance and makes it difficult, but does not preclude, the processing for linguistic information through hearing, with or without amplification.

LOW INCIDENCE FUNDING COMMITTEE GUIDELINES

1. LIF Equipment Fund

A. Documentation needed:

Appropriate required documents (see forms) submitted including current assessment/screening report by specialist knowledgeable in the specific Low Incidence disability with recommendation for equipment.

B. Funding Limits:

- \$100.00 minimum for equipment request

C. Equipment Covered:

- Equipment must meet the unique needs of the student and be adaptive and specialized

D. Equipment not covered:

- Lost, damaged by negligence or stolen equipment will be the responsibility of the LEA to replace.

LIST OF PRIORITIES FOR APPROVAL

The following is a list of priorities for determining allocation of the LIF funds since there may not be adequate funding to meet the needs of all the eligible students with low incidence disabilities.

1. Priority checklist for LIF equipment approval

- Appropriate required documents (see forms) submitted including current assessment/screening report by specialist knowledgeable in the specific Low Incidence disability with recommendation for equipment
- \$100.00 minimum for equipment request
- Lost, damaged by negligence or stolen equipment will not be replaced, but will be considered for approval
- Excess equipment will be considered first
- Equipment must meet the unique needs of the student and be adaptive and specialized. The LIF Committee **does not** purchase iPads.

Sections of Education Code Related to LIF

- *Education Code (EC)* Section (§) 56836.22 provides for funds to purchase **specialized books, materials, and equipment** as required under the individualized education program (IEP) for each pupil with low incidence disabilities as defined in §56026.5 ("hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof").
- "The **personnel who assess the pupil** shall prepare a written report, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all of the following:
- "The need for specialized services, materials, and equipment for pupils with low incidence disabilities consistent with guidelines established pursuant to §56136."
- The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to §56136.
- Basic computers or other basic technology should not be purchased with low incidence funds unless it can be clearly demonstrated to fulfill a specialized function, format or adaptation directly related to the low incidence disability. General education or other special education funding should be used for purchasing such basic items.
- www.cde.ca.gov/sp/se/as/documents/ligdlns1112.doc

APPENDIX K

Common Special Education Acronyms

504	Section 504 of the Rehabilitation Act of 1973
AAC	Alternative Augmentative Communication
ABA	Applied Behavior Analysis
ADA	Americans with Disabilities Act
ADA	Average Daily Attendance
ADHD	Attention Deficit Hyperactivity Disorder
ADR	Alternative Dispute Resolution
ALJ	Administrative Law Judge
APE	Adapted Physical Education
ASD	Autism Spectrum Disorder
ASL	American Sign Language
AT	Assistive Technology
BIP	Behavioral Intervention Plan
BSP	Behavior Support Plan
CAA	California Alternate Assessment
CAASPP	California Assessment of Student Performance & Progress
CAC	Community Advisory Committee
CART	Communication Access Real-time Translation
CCR	California Code of Regulations
CCS	California Children’s Services
CCSS	Common Core State Standards
CDE	California Department of Education
CDS	Community Day School
CFR	Code of Federal Regulations
CMH	County Mental Health
DA	Differentiated Assistance
DHH	Deaf and Hard of Hearing
DMH	Department of Mental Health
DOJ	Department of Justice

IFSP	Individualized Family Service Plan
IS	Independent Study
ISA	Individual Services Agreement
ISP	Individual Service Plan
ITP	Individualized Transition Plan
LCI	Licensed Children’s Institution
LEA	Local Education Agency
LEP	Limited English Proficient
LI	Low Incidence
LRE	Least Restrictive Environment
MD	Manifestation Determination
MTTS	Multi-Tiered System of Supports
NCLB	No Child Left Behind (Act)
NPS/NPA	Nonpublic School/Agency
O & M	Orientation and Mobility
OAH	Office of Administrative Hearings
OCD	Obsessive Compulsive Disorder
OCR	Office for Civil Rights
ODD	Oppositional Defiant Disorder
OHI	Other Health Impairment
OI	Orthopedic Impairment
OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitative Services
OT	Occupational Therapy
PBIS	Positive Behavioral Intervention and Supports
PBSP	Positive Behavior Support Plan
PRT	Pivotal Response Training
PWN	Prior Written Notice
RSP	Resource Specialist Program

DOL	District of Location
DOR	District of Residence
DOS	District of Service
DSM-5	Diagnostic and Statistical Manual of Mental Health Disorders (Ver. 5)
ED	Emotional Disturbance
EL	English Learner
ERICS	Educationally Related Intensive Counseling Services
ESL	English as a Second Language
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
FERPA	Family Educational Rights and Privacy Act
HHI	Home/Hospital Instruction
HI	Health Impairment
IA	Instructional Aide
IAES	Interim Alternative Educational Setting
ID	Intellectual Disability
IDEA	Individuals with Disabilities Education Act
IEE	Independent Educational Evaluation
IEP	Individualized Education Program

RTC	Residential Treatment Center
RTI	Response to Intervention
SAI	Specialized Academic Instruction
SBAC	Smarter Balance Assessment Consortium
SBE	State Board of Education
SCIA	Special Circumstance Instructional Assistant
SDC	Special Day Class
SEA	State Education Agency
SEIS	Special Education Information System
SELPA	Special Education Local Plan Area
SLD	Specific Learning Disability
SLI	Speech or Language Impairment
SST	Student Study Team
STAR	Standardized Testing and Reporting (replaced by CAASPP)
SWD	Students with Disabilities
TBI	Traumatic Brain Injury
TPP	Transition Partnership Program
USDOE	United States Department of Education
VI	Visual Impairment

HUMBOLDT COUNTY RESOURCES

ADDICTION SERVICES

Al-Anon, Alcoholics Anonymous

P.O. Box 6425 Eureka, CA 95502
707-444-2855, 707-443-1419, 844-442-0711
www.ncwsa.org/district-01/
www.aahumboldtelnorte.net/

Support group for family/friends of those struggling with drug/alcohol addictions; Support group in general.

Alcohol and Other Drug program, United Indian Health Services

1600 Wiyott Way Arcata, CA 95521
707-825-5000
www.uihs.org

Outpatient services for American Indians; support groups.

Substance Abuse Treatment Services For Youth (SATS)

United Indian Health Services
1600 Wiyott Way Arcata, CA 95521
707-825-5000
<http://www.uihs.org/clientservices/substance-abusetreatment-services-youth-sats>

Youth outpatient substance abuse treatment program incorporates culturally appropriate services as well as the traditional twelve-step model.

DEVELOPMENTAL/INTELLECTUAL DISABILITY SERVICES

Humboldt Community Access and Resource Center (HCAR)

1707 E Street Eureka, CA 95501
707-443-7077
www.hcar.us

Serves those with developmental/Intellectual disabilities by promoting individual independence, community inclusion and family unity through a wide variety of services and supports.

Redwood Coast Regional Center (RCRC)

525 2nd St # 300 Eureka, CA 95501
707-445-0893
www.redwoodcoastrc.org

Offers services and supports for children and adults with developmental/intellectual disabilities who live in Del Norte, Humboldt, Lake, and Mendocino Counties.

YOUTH EMPLOYMENT AND INDEPENDENT LIVING

CA Department of Rehabilitation

1330 Bayshore Way Suite 101 Eureka, CA 95501
707-445-6300
www.dor.ca.gov/

Works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living and equality for individuals with disabilities.

CA Tribal TANF Partnership

620 C St. Eureka, CA 95501
707-476-0344
www.cttp.net/

Provides educational training, career and employment opportunities toward self-sufficiency; through various supported services and programs with temporary financial assistance.

Humboldt County Employment Training Division

930 6th St. Eureka, CA 95501

707-441-4600

co.humboldt.ca.us/hhs/ssb/employmenttraining.asp

The Employment Training Division provides a comprehensive range of workforce preparation activities, benefiting job seekers, laid off workers, youth, incumbent workers, new entrants to the workforce, and employers.

HumWORKS

929 Koster St Module B Eureka, CA 95501

707-441-4600, 800-242-1353, 707-269-4179

https://co.humboldt.ca.us/hhs/mh_b/humworks.asp

Group program that addresses Substance Abuse, Mental Health and Domestic Violence related barriers to employment.

Northern California Indian Development Council

241 F St, Eureka, CA 95501

707-445-8451

www.ncidc.org/

Employment skills and training provided to American Indians.

Job Corps (Regional Office)

90 7th Street, Suite 17-100

San Francisco, CA 94103

(415) 625-2600

<http://www.jobcorps.gov/Home.aspx>

Job Corps offers a comprehensive array of career development services to at-risk young women and men, ages 16 to 24, to prepare them for successful careers.

MENTAL HEALTH SERVICE

Children Youth & Family Services, County Mental Health, DHHS

1711 Third St. Eureka, CA 95501

707-268-2800

<http://co.humboldt.ca.us/hhs/mhb/childrensmentalhealthservices.asp>

Provides assessment, treatment, medication support, and case management for children, youth, and families.

Humboldt Family Service Center

1802 California St. Eureka, CA 95501

707-443-7358

<http://humboldtfamilyservice.org>

Variety of sponsored programs including substance abuse, gambling addiction, family violence and counseling services for both adults and children; M-Cal and other insurance accepted, and sliding fee scale is available; clinical intake form available on website.

HSU Community Counseling Clinic, Department of Psychology

Behavioral & Social Sciences Building 2nd floor Room 208 Union St Arcata, CA 95521

707-826-3921

<http://www.humboldt.edu/psychology/dhouse/dhousehome.htm>

Faculty in the Department of Psychology supervise all students. Provides low cost counseling services to individuals, couples, adolescents, children, and HSU students. M-W 10am – 7pm, sliding scale from \$5-\$25; services available during school year.

North Coast Association of Mental Health Professionals

P.O. Box 5363 Eureka, CA 95502

707-441-3832

www.ncamhp.org

A clinical membership directory of local mental health professionals. Listing searchable by specialty, region, clinician name, etc.

Psychiatric Emergency Services, County Mental Health, DHHS

720 Wood St Eureka, CA 95501

707-476-4094, 707-445-7715 (Crisis Line)

<https://co.humboldt.ca.us/hhs/mh b/emergencyservices.asp>

The Psychiatric Emergency Services (PES) is an outpatient program that provides crisis intervention and stabilization services to individuals in need of immediate crisis services.

Same Day Services, County Mental Health, DHHS

720 Wood St. Eureka CA 95501

707-445-7715

<http://co.humboldt.ca.us/hhs/mhb /adultmentalhealthservices.asp>

Same Day Services and Psychiatric Emergency Services offer mental health crisis and stabilization services for persons exhibiting acute psychological distress. Outpatient Therapy, Outpatient medication support, and Case management available.

Sempervirens Psychiatric Health Facility (SV), County Mental Health, DHHS

720 Wood St. Eureka CA 95501

707-445-7710

<https://co.humboldt.ca.us/hhs/ mhb/sempervirens.asp>

Offers a locked hospital based treatment for clients who have serious and persistent mental illness that need acute psychiatric care. It is a Medi-Cal and MediCare certified 16 bed facility, and the only inpatient psychiatric hospital within a 300 mile radius.

Two Feathers Native American Services

2355 Central Ave., Suite C McKinleyville, CA 95519

707-839-1933

<http://www.twofeathers-nafs.org/>

A tribally chartered entity of Big Lagoon Rancheria, established to serve the needs of all Indian communities.

PARENTING SUPPORT

Love & Logic, Parents in Training (PIT)

510 3rd St., Ste. 9 Eureka, CA 95501

707-496-6070

www.Parentsintraining.org

Parent training provides information about gangs, drugs, alcohol, divorce and step-parents.

The Parenting Project, City of Arcata

736 F Street Arcata, CA 95521

707-822-5951

<http://www.cityofarcata.org/departments/police/youth-familyservices>

The Youth and Family Services (YFS) unit is a program that offers a broad range of services focusing on troubled teens and youth, parenting strong-willed kids, school safety matters, child-seat safety, threat assessments, and critical incident stress management.

YOUTH SERVICES

Boys and Girls Club of the Redwoods

939 Harris Ave Eureka, CA 95503

707-441-1030

<http://bgcredwoods.org/>

Services to enable all young people, especially those who need us most, to reach their full potential as productive, caring, responsible citizens. It is a youth development program for ages 5 to 18 and includes the Teen Centers, House, and Courts.

Independent Living Skills Program, County Social Services, DHHS

929 Koster Street Eureka, CA 95501

707-476-1291

<http://co.humboldt.ca.us/hhs/ssb/independentlivingskillsprogram.asp>

Independent Living Skills Program is voluntary and designed to assist youth transitioning from the foster care system. Youth who have been in foster care after their sixteenth birthday are eligible for ILSP services until 21st birthday.

Launch Pad, Youth Services Bureau, RCAA

523 T Street Eureka, CA 95501

707-443-8322

<http://rcaa.org/division/youthservice-bureau>

Serving youth that are homeless, fleeing abusive or dangerous situations or experiencing severe family conflict. Provides a variety of services to support youth with addressing the conflict in their lives. YSB services include a 24-hour youth crisis hotline, street outreach and drop-in services, temporary emergency shelter, and long term transitional housing.

North Coast Big Brothers Big Sisters

428 C Street, Suite G Eureka, CA 95501

707-445-4871

<http://www.ncbbbs.org/>

Providing children facing adversity with strong and enduring, professionally supported 1-to-1 relationships.

Our House, Youth Services Bureau, RCAA

1100 California St. Eureka, CA 95501

707-444-2273 (crisis line)

<http://rcaa.org/division/youthservice-bureau/program/ourhouse-%E2%80%93-emergencyshelter>

A temporary residential program for ages 12-17 yrs (maximum stay of 21 days) with the goal of family reunification. The majority of all sheltered youth return to their parent or guardian's home after a brief intervention by YSB.

Raven Project, Youth Services Bureau, RCAA

523 T Street Eureka, CA 95501

707-443-7099

<http://rcaa.org/division/youthservice-bureau/program/ravenproject-street-outreach-program>

Street Outreach Workers take to the streets with resource materials, safer sex supplies, first-aid supplies, and toiletries, socks, and snacks. Outreach gives opportunity to interact with individuals who cannot, or have not yet accessed services through the drop-in center.

Transition Age Youth Program (TAY), DHHS, County Mental Health

550 I Street Eureka, CA 95501

707-476-4907

<http://www.humboldtyouth.org>

Free counseling services for ages 16-25 yrs. Drop in hours are Wed., 2-4 p.m. Part of the Transition Age Youth Collaboration. A systems of care for transition age youth