LAYTONVILLE UNIFIED SCHOOL DISTRICT

PROCEDURES MANUAL
MENDOCINO COUNTY SELPA

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CHAPTER 1 – IDENTIFICATION, REFERRAL, AND ASSESSMENT

1.1 PURPOSE AND SCOPE

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

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

1.2 IDENTIFICATION

1.2 A CHILD FIND

The Special Education Local Planning Area (SELPA) and individual districts will actively and systematically seek out all individuals with disabilities including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities and who are in need of special education and related services, are identified, located, and evaluated.

Child Find activities may include but not be limited to:

1. A comprehensive screening program, including health, vision, hearing, speech and language;
2. Distribution of written information, including brochures and pamphlets describing the referral procedure;
3. Public awareness campaign, including public service announcements;
4. Annual notices to local newspapers;
5. Consultation with representatives of private schools, including religious schools on how to carry out activities to identify children with suspected disabilities;
6. Coordination with preschools, Head Start and other childcare facilities;
7. Communication with hospitals, pediatricians, obstetricians and other health professionals;
8. Coordination with parent resource centers and support groups;
9. Presentations to local professional groups and organizations established to inform and/or to serve culturally diverse populations;
10. Coordination with activities of the SELPA Community Advisory Committee (CAC); and,
11. Coordination with school site procedures, including referrals from the school site student intervention teams (e.g. Student Study Teams, etc.).
(EC 56300, 56301, 52040; CFR 300.451)

1.2 B STUDENT STUDY TEAM

The Student Study Team (SST) is a regular education function. It is a process of reviewing individual student problems and planning alternative instructional strategies to be implemented in the regular classroom.

Although specialists, such as school psychologists, speech/language specialists, and resource specialists may be involved, the SST is not a special education function and as such is not subject to the associated restrictions and timelines. A special education referral may be appropriate after alternative strategies have been implemented. As a

regular education function, the team also helps with mainstreaming strategies for those students who are already in special education.

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

1.3 REFERRAL PROCESS

1.3 A SOURCE OF REFERRALS

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

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

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

1.3 B REFERRAL PROCEDURES

1. Referrals for assessments to determine eligibility for special education and related services will be made to the school site principal or designee at the child's school of residence.
2. Referrals may be processed through the school site Student Study Team or other student intervention team to review the referral and document interventions tried prior to referral.
3. All requests for assessments will be submitted in writing. If a parent makes the request verbally the principal or designee will assist the individual in making the request in writing.
4. The school site administrator or designee will review the referral. If the information is incomplete the referral source will be contacted to request additional information.
5. If the information is complete, the school site administrator or designee will initiate the assessment process, including notification of parent. An assessment plan will be developed.
6. No assessment will be conducted without written parent consent.
7. The district office special education administrator will assist, whenever necessary to process referrals.
   (EC 56302-56303; 5 CCR 3021, 5 CCR 3029; CFR 300.530)

1.3 C INAPPROPRIATE REFERRALS

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

1. A description of the action refused by the district;
2. An explanation why the district refuses to take the action;

3. A description of any other options that the district considered and the reasons why those options were rejected;
4. A description of each procedure the district used as a basis for the refused action.
5. A description of any other factors that is relevant to the district's refusal.

(CFR 3001.503)

1.4 PARENTAL CONSENT/PROCEDURAL SAFEGUARDS

The LEA shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability. Procedural Safeguards contain information regarding parental consent in the IEP process. Procedural Safeguards are offered to parents at every IEP or upon request.

1.4 A REQUEST FOR INITIAL EVALUATION

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

1. Such initial evaluation shall consist of procedures to determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation and to determine the educational needs of the child.

2. Exception- The relevant timeframe shall not apply to a LEA if:
    a. A child enrolls in a school served by the LEA after the relevant timeframe has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability but only if the subsequent LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parent and the subsequent LEA agree to a specific time when the evaluation will be completed; or
    b. The parent of a child repeatedly fails or refuses to produce the child for the evaluation.

1.4 B PARENTAL CONSENT FOR INITIAL EVALUATION

1. The LEA proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability shall obtain informed consent from the parent of a child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

2. Consent for Services – The LEA is responsible for making a free appropriate public education available to a child with a disability and shall seek to obtain informed consent from the parent of a child before providing special education and related services to the child.

3. Absence of Consent for Initial Evaluation - If the parent of a child does not provide consent for an initial evaluation or the parent fails to respond to a request to provide the consent; the LEA **may,** but need not pursue the initial evaluation through due process. Absence of Consent for Initial Services – If the parent of a child does not provide consent to the initial provision of services, the LEA shall **not** provide special education and related services to the child by using due process.

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

a. The LEA shall **not** be considered to be in violation of the requirement to make a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the LEA requests such consent; and
b. The LEA shall **not** be required to develop an IEP for the special education and related services for which the LEA requests such consent.

c. If the child is a ward of the State and not residing with the child's parent, the LEA shall make reasonable efforts to obtain such consent from the parent of the child for the initial evaluation to determine whether the child is a child with a disability.

1.4 C PARENTAL RIGHT TO REVOKE CONSENT

The parental right to revoke consent content is taken from School and College Legal Services of California LEGAL UPDATE, December 30, 2008; Subject: New Federal Regulations Allow Parents to Revoke Consent to Special Education Services Without Liability for Districts, Memo No. 33-2008 .

New Federal Regulations allow parents to revoke consent to Special Education services without liability for Districts

The U.S. Department of Education published new regulations regarding the Individuals with Disabilities Education Act ("IDEA") on December 1, 2008, which become effective on December 31, 2008. The revised federal regulations address several compliance and reporting issues at the state level and other issues of less immediate concern; however, the revised federal regulations also provide much needed guidance on the issue of parental revocation of consent for special education services. The revised federal regulations govern parental revocations that occur on or after December 31, 2008 and do not apply retroactively to parental revocations that occurred prior to this date.

The revised federal regulations continue the previously existing rule that when parents refuse to consent to a student's initial receipt of special education services, a Local Educational Agency ("LEA") cannot file a request for a due process hearing or otherwise seek to override the parents' refusal to consent to services. Under these circumstances the LEA is not liable for failure to provide the student with a Free Appropriate Public Education ("FAPE"). However, a question had remained as to the duty and liability of the LEA where the parents wished to revoke consent after their child had received special education services. California resolved this issue through Education Code section 56346(f), which requires the LEA to file for a due process hearing in this circumstance where the LEA believed the student required such special education services in order to receive a FAPE.

The revised federal regulations, which supersede Education Code section 56346(f), provide that when parents revoke consent for the provision of special education services to a student who is receiving special education services the LEA will not be liable for failure to provide the student with a FAPE under the IDEA, so long as the following revocation process is followed.

Process for Revocation

1. The parents must revoke the special education services in writing;

2. The LEA must "promptly" and within a "reasonable time" respond to the parents' request with prior written notice before discontinuing the services; and

3. After sending the parents prior written notice, the LEA may discontinue the special education services.

Parental revocation of consent for services cannot be retroactive; therefore, an LEA is not required to amend education records to remove any references to a student's prior receipt of special education assessment and services. An LEA or Special Education Local Plan Area ("SELPA") may choose to develop a standard form for parents to use to revoke consent for special education services, but the use of the form cannot delay the discontinuation of the services. An LEA may request from parents, but cannot require, the reason for their revocation of special education services for their child.

Prior Written Notice

The prior written notice, in conformance with 34 C.F.R. 300.503, should provide the student's parents with the following:

1. A statement that the parents are requesting to revoke consent for special education services for their child, which will result in the discontinuance of special education services and result in the child being treated as a general education student for all purposes (to include disciplinary matters);

2. A statement describing the general education program and services the student will receive;

3. A statement that while the LEA believes the student still requires special education services to receive a FAPE, the parents are revoking consent for the special education services;

4. A statement that the LEA believes the student still requires special education services based on the students most recent assessments, reports, and other information (which should be listed in some detail);

5. A statement that the student's parents have protection under the procedural safeguards of the IDEA (and we also advise a copy of the procedural safeguards accompany the prior written notice);

6. A statement regarding sources of information for the parents to contact to understand the requirements of the IDEA such as the LEA special education administrator; and

7. A statement regarding any other relevant factors or issues.

The prior written notice should be provided in the native language of the student's parents unless it is clearly not feasible to do so. In the case of a student who is eighteen or older and requests to revoke consent for services, the prior written notice should be provided to both the student and the student's parents although the student holds the revocation rights. We recommend that the prior written notice provide a short time period in which the special education services will continue to be provided, such as five school days, before the services are discontinued in order to allow the students' parents to fully consider their action and change their minds (i.e. request for the services to continue).

Revocation of Services Changes Status of Student to General Education

Once a student's parents revoke the consent for special education services, the student should be treated the same as any other general education student, which includes matters of discipline. The student may be placed in any general education classrooms co-taught by a special education teacher. If the student's parents later change their minds and request special education services for their child, then the LEA must treat the parents' request as an initial request for services. This means the LEA must assess the student (although the assessment can be abbreviated at the LEA's discretion based upon previous assessment information), convene an Individualized Education Program ("IEP") meeting to determine eligibility for special education, and provide an appropriate offer of services if the student qualifies. All timelines regarding initial referrals, assessments and IEP meetings would apply.

An LEA should neither try and "convince" parents to continue to consent to special education services for their child nor try to "encourage" parents to revoke consent for special education services where the LEA believes the student still requires special education services in order to receive a FAPE. The comments to the regulations make clear that the parents are presumed to have the "best interests" of their child in mind when revoking consent for special education services. Nevertheless, and LEA is still authorized to file a complaint with child protective services when abuse or neglect is suspected, which may be triggered by parents revoking consent for special education services for their child.

No Need to Develop a 504 Plan

The United States Department of Education, Office of Civil Rights ("OCR") has advised that when a parent rejects consent for implementation of an IEP developed under the IDEA the parent is essentially rejecting what would be offered under Section 504 of the 1973 Rehabilitation Act. Therefore, an LEA is not required to develop a 504 Plan for a student whose parents have refused to consent or revoked consent for special education services.

Partial Revocation of Parental Consent

In California, Education Code section 56346(f) state that LEAs must file for due process hearing if a student's parents refuse to consent to a component of the student's existing special education program where the LEA believes the student requires the component in order to receive a FAPE. The federal regulations unfortunately do not clearly resolve the issue of partial revocation of parental consent. However, a comment to the federal regulations strongly suggests that parents may not partially revoke consent for special education services – in other words, consent may be an all or nothing proposition:

If, however, the parent and public agency disagree about whether the child would be provided with FAPE if the child did not receive a particular special education or related service, the **parent** may use the due process procedures … to obtain a ruling that the service with which the parent disagrees is not appropriate for their child. (Emphasis added).

Comments to the federal regulations do not carry the force of law, but are persuasive authority cited by the Office of Administrative Hearings ("OAH") and the courts in interpreting the law. Therefore, based on the above, we suggest that districts contact legal counsel to obtain assistance in resolving an issue of partial parent consent or partial parent revocation of existing special education services. We will keep you updated as OAH and the courts further clarify this legal issue.

1.5 ASSESSMENT PROCESS

1.5 A INITIAL ASSESSMENTS

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

Once a child has been referred for initial assessment to determine whether the child is an individual with exceptional needs to determine the educational needs of the child, these determinations shall be made, and an individualized education program meeting shall occur, within *60 days* of receiving parental consent for the assessment, not counting days between the pupil's regular school sessions, terms or days of school vacation in excess of five school days.

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

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

(2) The parent of a child repeatedly fails or refuses to produce the child for assessment.

The results of the assessment will be used by the child's IEP team to develop an appropriate Individualized Education Program (IEP).

1.5 B ASSESSMENT PLAN

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

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

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

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

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

The LEA proposing to conduct an initial assessment to determine if the child qualifies as an individual with exceptional needs shall obtain informed consent from the parent of the child before conducting the assessment. If the parent of the child does not provide consent for an initial assessment, or the parent fails to respond to a request to provide consent, the LEA **may** pursue the initial assessment through due process, but is **not** legally obligated to do so.

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

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

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

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

As part of the assessment plan the parents will be provided with a written notice that upon completion of the administration of tests and other assessment material, an Individualized Education Program (IEP) team meeting, including the parent and his or her representatives, will be scheduled. The IEP Team will discuss the assessment, review any additional information, discuss the educational recommendations, and the reasons for these recommendations.

Parents will receive a copy of the assessment report and the documentation of determination of eligibility. Included with the assessment plan will be a copy of Parents' Rights and Procedural Safeguards. The parents will be informed that they have a right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, if the parent disagrees with an assessment obtained by the district. The district can choose to file a due process complaint to request a due process hearing to defend the public evaluation.

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

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

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

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

(EC 56321, 5 CCR 3022)

1.5 C ASSESSMENT REQUIREMENTS

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

1. Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless is not feasible to provide or administer.
2. Procedures and materials for evaluation and assessment of students shall be selected and administered so as not to be racially or culturally discriminatory.
3. Are used for purposes for which the assessments or measures are valid and reliable.
4. 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.
5. Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

6. Tests are selected and administered to best ensure that when a test is administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual or speaking skills unless those skills are the factors that the test purports to measure.
7. No single measure or assessment is used as a sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.
8. The pupil is assessed in all areas of the suspected disability including, if appropriate, health and development, vision, including low vision, hear, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, social and emotional status.
9. A developmental history shall be obtained when appropriate. For pupils with residual vision, a low vision assessment shall be provided.
10. 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.
11. As part of an initial evaluation the IEP team will review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and observations by teachers and related services providers.

(EC 56320, 56324)

1.5 D ASSESSMENT REPORT

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

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

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

(EC 56327)

1.6 ELIGIBILITY CRITERIA

Upon completion of the administration of tests and other evaluation materials, the determination of whether the student is an individual with a disability shall be made by the IEP Team, including the parents of the child and assessment personnel. The IEP Team will take into account all the relevant material, which is available on the pupil. No single score or product of scores shall be used as sole criterion for the decision.

Three primary factors must be considered in making this determination:

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

1.6 A FEDERAL CATEGORIES OF DISABILITIES

1. Autism
2. Deaf- Blindness
3. Deafness
4. . Emotional Disturbance
5. Hearing Impairment
6. Mental Retardation
7. . Multiple disabilities
8. . Orthopedic
Impairment 9. Other
Health Impaired
10. Specific Learning disability
11. Speech and Language
12. Traumatic Brain Injury
13. Visual Impairment

Although "Developmental Delay" is not recognized by the State of California as a category of disability for individuals age 3 through 21, the term is sometimes used to describe a disability in infants, toddlers or preschool children.

Students who have been diagnosed with Dyslexia or Attention Deficit Disorder (ADD) or Attention Deficit/Hyperactivity Disorder (AD/HD) may qualify for special education services if they also meet eligibility under one of the above thirteen categories, such as Specific Learning Disability, Other Health Impaired or Emotional Disturbance.

1.6 B SPECIAL RULE FOR ELIGIBILITY DETERMINATION

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

1. Lack of appropriate instruction in reading, including the essential components of reading instruction.
2. Lack of instruction in math; or
3. Limited English proficiency

(EC 56333-56339; 5 CCR 3030; CFR 300.7, 300.534)

1.6 C EVALUATIONS BEFORE CHANGE IN ELIGIBILITY

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

2. Exception: The evaluation shall not be required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education.

3. Summary of Performance: For a child whose eligibility terminates due to graduation from secondary school with a regular diploma, or due exceeding the age eligibility for a free appropriate public education the LEA shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

1.7 REASSESSMENTS

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

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

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

1.7 A THREE YEAR REASSESSMENTS

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

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

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

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

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

If the team determines no additional data is needed, the district will notify the parents of that determination and the reason for it and the right of the parents to request an assessment. The district is not required to conduct the assessment unless requested to do so by the pupil's parents.

(EC 56380, 56381; CFR 300.533, 300.536)

1.7 B STATE AND FEDERAL MANDATED BEHAVIORAL ASSESSMENTS

Following are descriptions of two different behavioral assessments that are required for specific students under either State or federal regulations. A functional behavioral assessment (FBA) is required by federal law and is part of the disciplinary process. A functional analysis assessment (FAA) is required by California State law to address serious behavior not yet responsive to previous plans.

1.7 C FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA)

A functional behavior assessment may utilize review of records, interviews, behavior assessment scales, and may include observation of pupil behavior and/or environmental conditions. A functional behavior assessment shall be conducted under the following circumstances.

1. The pupil's behavior has resulted in disciplinary suspension beyond 10 cumulative days in a school year.
2. An interim alternative educational setting or involuntary change in placement is being considered in a disciplinary context.
3. A manifestation determination in response to a violation of a rule or code of conduct is occurring.

Following the functional behavior assessment the IEP team will develop a behavior intervention or behavior support plan. This behavior intervention plan shall be part of the pupil's IEP and shall specify environmental instructional changes and other techniques and strategies including positive behavioral interventions, strategies and supports.

If a behavior intervention plan is not effective, the IEP team shall either request a functional analysis assessment (FAA), as described below or continue modifications to the behavior intervention plan until success is attained.

(CCR 300.520; 3 00.523)

1.7 D FUNCTIONAL ANALYSIS ASSESSMENT (FAA)

A Functional Analysis Assessment (FAA) is a California State requirement to address severe behavior not yet responsive to previous plans to address behavior that impedes learning. The FAA is a more comprehensive assessment that results in the development of a Positive Behavioral Intervention Plan.

A Functional Analysis Assessment will be conducted when an IEP team determines that the instructional/behavioral approaches specified in the student's IEP have been ineffective. A parent may request that a functional analysis assessment be performed.

The assessment must be conducted by, or be under the supervision of a person who has documented training in behavior analysis with an emphasis or positive behavioral interventions.

Functional Analysis Assessment personnel shall gather information from three sources: direct observation, interviews with significant others, and review of available data such as assessment reports prepared by other professionals and other individual records.

Prior to conducting the assessment, parent notice shall be given and parental consent obtained.

A Functional Analysis Assessment procedure shall include all of the following:

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

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

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

1.8 OVERIDENTIFICATION AND DISPROPORTIONALITY

Regionalized services in the SELPA include review and analysis of LEA CASEMIS Data, including the collection and examination of data regarding the over/under representation of racially, ethnically, linguistically and culturally diverse students to determine whether an imbalance exists within the LEA.

Correction of these problems may be carried out through the following means:

1. Provision of training and technical assistance as necessary to clarify compliant practices with appropriate LEA staff;
2. Assistance with correction of non-compliant procedures or practices identified through state and local compliance complaint investigations;
3. Regular meeting with SELPA Policy Council and Steering Committees;

4. Individual consultation with LEA administrative staff.

In cases where the identified problem persists following implementation of such steps as outlined above, the LEA superintendent shall be notified regarding the issue.

APPENDIX A INDEPENDENT EDUCATION EVALUATION PROCEDURES

If a parent disagrees with an evaluation completed by the district and seeks an Independent Educational Evaluation (IEE), the district shall either initiate a due process hearing to determine that its evaluation is appropriate or provide the parent an opportunity to obtain an IEE at public expense. The parent must inform the district in writing or orally communicate the following concerns at the IEP meeting: 1) that they disagree with the district's evaluation and 2) that they request an Independent Educational Evaluation at public expense. The parent may be asked the reason for their objection to the district's evaluation; however, there is no requirement that the parent specify areas of disagreement with the district's evaluation as a prior condition for obtaining the IEE. The district does not have an obligation to reimburse parent for private evaluations obtained prior to the date that the district's evaluation is completed and discussed in an IEP meeting or prior to the parent's written disagreement with the district's evaluation or notice of their request for an IEE in the IEP meeting which must be considered by the IEP team.

Upon request for an IEE at public expense, the district shall provide the parent with the policy, procedures including agency criteria, and a list of contractors who meet the agency criteria for IEE. If necessary, district staff will assist the parent in putting the request in writing. The district shall offer the parent an evaluator from another school district or a private contractor from the district's list of evaluators meeting the agency criteria.

The district shall make the arrangements for the IEE without unnecessary delay to ensure that it is provided in a timely manner and at public expense. If the parent declines to use a contractor from the district's list of evaluators, the parent has the right to retain another individual to conduct the evaluation. The parent may request reimbursement from the district if the evaluator meets the criteria for IEE contained in this policy. The district shall either reimburse the parent if the evaluator meets the criteria or initiate a due process hearing to show that its evaluation is appropriate. If the district initiates a due process hearing and the final decision is that the district's evaluation is appropriate, the parent still has the right to retain another individual to conduct the evaluation but not at public expense.

CONSIDERATION OF INDEPENDENT EDUCATIONAL EVALUATIONS

The IEP team is responsible for determining placements and services; therefore, the IEP team will consider recommendations designed to assist students in making educational progress completed in accordance with this policy. IEE will not control the decisions in the district's recommendations.

An IEE that is initiated by the parent shall be considered in any decision made with respect to the provisions of a free appropriate public education (FAPE) to the student if it meets the district's criteria. It may be presented as evidence at a due process hearing regarding the student. All requirements outlined in the IEE criteria must be followed. The district imposes no other conditions related to obtaining IEE at public expense.

The district may reimburse parent for private evaluations outside of this policy in any one of three circumstances:

a. All of the following conditions have been met:

- The parent disagreed with the district's evaluation in writing or gave notice his/her disagreement in IEP meeting,
- The private evaluation meets the criteria contained in this policy,
- The parent provides a copy of the written report and written consent to exchange information, and

- The examiner attends the relevant IEP meeting by phone or in person to discuss the findings and provides copies of all protocols to the district or,

b. The district's evaluation has not been provided in compliance with the law; or

c. The privately obtained evaluation assessed the student in an area of suspected disability, which was not assessed by the district.

Reimbursement will be in accordance with district policy, procedures and criteria in an amount no greater than the actual cost to the parent and subject to proof. Reimbursement does not include observations/consultation with outside consultants. When the district initiates a due process hearing to determine that its evaluation was appropriate, no reimbursement shall be made unless ordered by a Hearing Officer.

LEGAL REFERENCE:

FEDERAL REQUIREMENTS: 20 USC 1412 (a) (7), 1414 (a-c), 34 CFR 300.128, 300.520

CALIFORNIA REQUIREMENTS: EC 5632 0-333, 56380 (a), CCR Title 5– 3021-3029

SUBJECT: Procedures for Independent Educational Evaluations

DEFINITIONS:

INDEPENDENT EDUCATIONAL EVALUATION (IEE): An evaluation conducted by a qualified examiner who is not employed by the district.

QUALIFIED EXAMINER: An evaluator, who is competent to perform the evaluations through criteria established by the district, in accordance with Education Code, Section 56322.

PUBLIC EXPENSE: The district either pays for the full cost of the evaluation and/or its components or ensures that the evaluation/components are provided at no cost to the parent.

PARENT INITIATED EVALUATION: An IEE obtained by the parent at private expense.

In the interest of consistency between public and private evaluations, the district encourages parent to choose an evaluator from the SELPA list for an IEE offered by the district within 15 days of receiving options. Once the assessment plan is signed the district shall initiate a contract with the examiner within 15 days of the date that the parent' written consent is received. All independent contractors are required to provide a written report and copies of the test protocols for the IEP team within 50 days of the signed evaluation plan. If the parent chooses an evaluator that is not on the SELPA list, they should make their own arrangements for the evaluation. They may request reimbursement from the district if the evaluator meets the criteria for independent educational evaluators. To avoid a potential conflict of interest, if the IEP team determines that a recommended service by an independent educational evaluator is required, someone other than the evaluator will provide the service.

CRITERIA FOR INDEPENDENT EDUCATIONAL EVALUATORS

Local Limitations for Evaluators

Evaluators must be located within the Mendocino County area (counties: Mendocino, Lake, Humboldt, Sonoma). Evaluators outside of this area will be approved only on an exceptional basis if the parent can demonstrate that there is a unique need for a specialized evaluation for their child and that there are no qualified evaluators within the Mendocino County area, who can appropriately assess their child's educational needs. Unless an out-of-the-area evaluation is required for the student to receive an IEE, costs beyond the evaluation (i.e., food, lodging, transportation) are not covered.

Minimum Qualifications for Evaluators

All evaluations must be conducted in accordance with all requirements of Federal and State law including, but not limited to, observing the student in the appropriate setting (Education Code Section 56327) and conducting evaluations in accordance with Education Code Section 56320. Evaluators must meet federal and/or State certification, licensing, registration or other comparable requirements, or CDE approved or recognized requirements and adheres to standards of professional practice established in federal and State law or regulations.

Type of Assessment	Qualifications
Academic Achievement	Certificated Special Education Teacher,
Psycho educational	Licensed Educational Psychologist, or School Psychologist (Credentialed)
Adaptive Behavior	Licensed Educational Psychologist, Certificated Special Education Teacher, or School Psychologist (Credentialed)
Assistive Technology	Certificated or Licensed Speech/Language Pathologist or Certified Special Education Teacher
Auditory Acuity	Licensed or Certificated Audiologist
Auditory Perception (CAP)	Licensed or Certificated Audiologist
Cognitive	Licensed Educational Psychologist, or School Psychologist
Health	Certificated School Nurse
Motor	Licensed Physical Therapist, Registered Occupational Therapist, or Adaptive Physical Education Specialist

Speech and Language Pathologist	Certificated or Licensed Speech/Language
Social/Emotional/Behavioral	School Psychologist (Credentialed), Social Worker (LCSW), Licensed Psychiatrist, or Licensed Psychologist
Vision (Functional)	Certificated Teacher of the Visually Impaired
Visual Perception	Resource Specialist (Credentialed), Licensed Educational Psychologist, School Psychologist (Credentialed), Ophthalmologist or Optometrist

When insurance will cover all or part of the costs of the IEE, the district will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parent will not be asked to have insurance cover IEE costs if such action would result in a financial cost to the parent not reimbursed by the district, including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy;
2. An increase in premiums or the discontinuance of the policy; or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim.

Independent evaluators must agree to release their evaluation information (including test protocols upon request) and results to the district prior to receipt of payment for services.

The evaluation report must be made available to the district and parent five days prior to the IEP team meeting. The results of the IEE will be considered in the eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.

All Independent Educational Evaluators must utilize testing and assessment materials and procedures which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the pupil's primary language or other mode of communication, unless the evaluation plan indicates reasons why this provision and administration are not clearly feasible. All assessment instruments utilized must have been validated for the specific purpose for which they are used, and be administered by trained personnel in conformance with the instructions provided by the publisher.

CHAPTER 2 – EARLY CHILDHOOD EDUCATION

2.1 PURPOSE AND SCOPE

The SELPA, County Office of Education, Districts, and the Regional Center will actively and systematically seek out all children with disabilities from birth to age five to refer, assess and determine eligibility for special education services.

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

2.2 IDENTIFICATION AND REFERRAL

Child find activities may include:

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

Regional Centers and Districts shall coordinate local child find activities with each other and other public agencies.

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

Regional Centers and Districts shall inform primary referral sources of the following:

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

The Regional Center, County Office, or District that receives an oral or written referral for early intervention services shall ensure that:

1. The date of the referral is documented in the infant's or toddler's record;
2. A service coordinator is assigned; and,

3. Written notice is provided and consent is requested.

(17 CCR 52040, 52060)

2.3 EARLY START PROGRAM DESCRIPTION

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

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

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

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

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

Parent involvement/education activities are provided in conjunction with home based and group services.

(EC56424-56426.2)

2.4 ASSESSMENT TO DETERMINE ELIGIBILITY

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

The determination of eligibility for an infant or toddler shall be made by qualified personnel of the MCOE as per *Memo of Understanding* and contract between MCOE and RCRC. The determination shall be made with the participation of the multidisciplinary team including the parent. Evaluation and assessment shall be based on informed clinical opinion and include:

1. A review of pertinent records related to the infant or toddler's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.

2. Information obtained from parental observation and report.

3. Evaluation by qualified personnel of the child's level of functioning in each of the following areas:

   a. cognitive development
   b. physical and motor development, including vision and hearing c. communication development
   d. social or emotional development
   e. adaptive development

4. No single procedure shall be used as the sole criterion for determining a child's eligibility.

5. Standardized tests or instruments may be used as part of the evaluation, and if used, they shall be selected to ensure that, when administered to an infant or toddler with impaired sensory, motor or speaking skills, the tests produce results that accurately reflect the infant's or toddler's aptitude, developmental level, or any other factors the test purports to measure and not the infant's or toddler's impaired sensory, motor or speaking skills unless those skills are the factors the test purports to measure. The tests must be validated for the specific purpose for which they are used.

6. Procedures and materials for evaluation and assessment of infants and toddlers shall be selected and administered so as not to be racially or culturally discriminatory.

7. Infants or toddlers with solely low incidence disabilities shall be evaluated and assessed by qualified personnel of the County office whose professional preparation, license or credential authorization are specific to the suspected disability.

8. Regional Centers, LEA's and multidisciplinary teams shall not presume or determine eligibility, including eligibility for medical services provided through the Department of Health Services, for any other state or local government program or service when conducting evaluations or assessments of an infant or toddler or their family.

(17 CCR 52082; GC 95016)

2.5 ASSESSMENT FOR SERVICE PLANNING

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

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

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

1. A review of information related to the child's health status and medical history provided by qualified health professionals, who have evaluated or assessed the child.

2. Developmental observations by qualified personnel and the parent.
3. Other procedures used by qualified personnel to determine the presence of a developmental delay, established risk condition, or high risk for a developmental disability.
4. Standardized tests or instruments.

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

1. Be conducted by qualified personnel trained to utilize appropriate methods and procedures;
2. Be based on information provided by the family through a personal interview;
3. Incorporate the family's description of its resources, priorities and concerns related to enhancing the development of the child; and
4. Be conducted in the language of the family's choice or other mode of communication unless it is not feasible to do so.

Evaluations and assessments for service planning shall be conducted in natural environments whenever possible.

(17 CCR 52086)

2.6 TIMELINE FOR COMPLETION OF EVALUATION AND ASSESSMENT

The evaluation and assessment for eligibility for each child shall be completed within 45 days of the date that the Regional Center or County Office received the referral.

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

(17 CCR 52086)

2.7 ELIGIBILITY

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

1. Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development.

2. Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences.

3. Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

If standardized, normed or criterion referenced instruments are used as part of the evaluation, a significant difference between a child's current level of functioning and the expected level of development for his or her age shall be established when the child's age equivalent score falls one third below age expectation.

(17 CCR 52022; GC 95014)

2.8 DEVELOPMENT OF THE IFSP

An initial IFSP shall be developed by the Regional Center and/or County office for each eligible infant or toddler, within 45 days of the receipt, by either the regional center or LEA, of the oral or written referral.

A periodic review of the IFSP shall be conducted every six months or more frequently if service needs change, or if the parent requests such a review.

All IFSP meetings shall be conducted in settings and at times or by

means that are reasonably convenient to the parent and in the language of parent's choice unless it is clearly not feasible to do so.

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

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

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

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

1. Other family members
2. An advocate or person outside of the family.

Each IFSP meeting shall include persons who will be providing services to the infant or toddler and family as appropriate.

(17 CCR 52102, 52104)

2.8 A CONTENTS OF THE IFSP

The IFSP must be in writing and contain:

1. A statement of the infant's or toddler's present levels ofdevelopment in the following areas:

    a. physical development,
    b. cognitive development,
    c. communication development,
    d. social or emotional development, and
    e. adaptive development.

2. A statement of the family's resources, priorities, andconcerns relating to enhancing the development of the family's infant or toddler with a disability.

3. A statement of the major outcomes expected to be achievedfor the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary.

4. A statement of specific early intervention services necessaryto meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services.

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

6. The projected dates for initiation of services and the anticipated duration of the services.

7. The identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's family needs (or who is otherwise qualified to carry out all applicable responsibilities), who will be responsible for the implementation of the plan and coordination with other agencies and persons.

8. The steps to be taken to support the transition of the toddler, with a disability, to preschool or other appropriate services.

The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained before early intervention services as described in the plan can be provided. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention service to which consent is obtained shall be provided.

(17 CCR 52106)

2.8 B REVIEW OF THE IFSP

The IFSP shall be evaluated once a year and the family must be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

The IFSP team will review the degree to which progress toward achieving the outcome is made and document all modifications and revisions of the outcomes or services as necessary.

(17 CCR 52102)

2.9 TRANSITION REQUIREMENTS FOR EARLY INTERVENTION

To ensure a smooth transition for toddlers receiving early intervention services to preschool or other appropriate services, the following requirements must be met:

1. The families of such toddlers will be included in the transition plans.
2. At 2 years 6 months of age, the service coordinator will notify the District for the area in which the child resides and the parent that the child will shortly reach the age of eligibility for preschool services.
3. The District of Residence will hold an IEP meeting before the third birthday that ensures smooth and effective transition to a preschool program so that the child is in his/her preschool program on his/her third birthday. The IFSP transition planning meeting will be convened among the service coordinator, the family and the district at least 90 days (and at the discretion of all parties, up to 6 months) before the child is eligible for the preschool services, to discuss the transition steps and timelines, dates for transition activities and any such services that the child may receive.
4. In the case of a child who may not be eligible for such preschool services, with the approval of the family, reasonable efforts will be made to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services.
5. Procedures must occur to review the child's program options for the period from the child's third birthday through the remainder of the school year.

(17 CCR 52112; EC 56426.9)

2.10 PRESCHOOL CHILDREN (AGE THREE TO FIVE) WITH DISABILITIES

2.10 A IDENTIFICATION AND REFERRAL

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

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

Children who have been participating in the Early Start Program and are eligible to participate in preschool program will experience a smooth transition to preschool programs in the district or county

office of education. Representatives of the district will participate in all transition planning conferences to ensure a smooth transition.

2.10 B EVALUATION AND ASSESSMENT

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

The assessments will be conducted by a transdisciplinary team including early childhood specialists, speech and language specialists, and other professional disciplines.

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

Special attention will be given to:

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

When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

(EC56441.11, 56441.6, 56426.6)

2.10 C ELIGIBILITY

The special education eligibility criteria listed in Chapter 1 shall apply to preschool children, between the ages of three and five years. A preschool child qualifies as a child who needs early childhood special education services if the child meets the following criteria:

1. Is identified as having one of the following disabling conditions, or an established medical disability:

   a. autism
   b. deaf- blindness
   c. deafness
   d. hearing impairment
   e. mental retardation
   f. multiple disabilities
   g. orthopedic impairment
   h. serious emotional disturbance
   i. specific learning disability
   j. speech or language impairment in one or more of voice, fluency, language and articulation

k. traumatic brain injury
l. visual impairment
m. established medical disability

2. Needs specifically designed instruction or services

3. Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an IEP team.

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

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

Established medical disability is defined as a disabling medical condition or congenital syndrome that the IEP team determines has a high predictability of requiring special education and services.

(EC 56441.11, 56440, 56333-56339; 5 CCR 3030, 3031)

2.10 D INDIVIDUALIZED EDUCATION PROGRAM

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

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

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

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

(EC 56441.2)

2.10 E SERVICES FOR PRESCHOOL CHILDREN WITH DISABILITIES

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

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

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

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

Appropriate settings for these services include any of the following:

1. The regular public or private nonsectarian preschool program;

2. The child development center or family day care home;

3. The child's regular environment, that may include the home;

4. A special site where preschool programs for both children with disabilities and children, who are not disabled, are located close to each other and have an opportunity to share resources and program;

5. Special education preschool program, with children, who are not disabled, attending and participating, for all or part of the program; or,

6. A public school setting which provides an age- appropriate environment, materials, and services.

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

Services may be provided by any of the following methods:

1. Directly by a Local Educational Agency, (SELPA, District or County Office of Education;
2. Through an interagency agreement between a local educational agency and another public agency;
3. Through a contract with another public agency;
4. Through a contract with a nonpublic, nonsectarian school or nonpublic, nonsectarian agency; or
5. Through a contract with a nonsectarian hospital.

(EC 56441.3, 56441.4, 56441.8)

2.10 F INSTRUCTIONAL ADULT TO CHILD RATIO

Appropriate instructional adult-to-child ratios for the group services shall be dependent on the needs of the child. However, because of the unique needs of children with disabilities between the ages of three and five years, inclusive, who require special education and related services, the number of children peer instructional adult shall be less than one to six for preschool children with disabilities in general.

Group services for children, identified as severely disabled, shall not exceed an adult-to-child ratio of one to five.

(EC 56441.5)

2.10 G TRANSITION FROM PRESCHOOL TO KINDERGARTEN OR FIRST GRADE

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

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

(EC 56445)

CHAPTER 3 – IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS.....

3.1 PURPOSE AND SCOPE

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

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

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

Procedures for Identification and referral for special education and related services for all students are described in Chapter 1 of this *Special Education Procedural Handbook.* Please refer to that chapter for complete information. Special considerations for EL students are included in the following sections.

3.3 SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL

Unless the student has a severe disability, including but not limited to severe vision and hearing impairments, severe physical impairment, severe mental retardation, autism, or severe health impairment, the student should be allowed sufficient time to acquire English proficiency and receive appropriate academic instruction in language arts and math.

It is critical to differentiate between a student who is not achieving in the classroom because English is not his/her primary language and a pupil who is not achieving due to a disabling condition.

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

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

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

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

3.4 STUDENT STUDY TEAM

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

3.4 A TEAM MEMBERS

Members of the team may include the following:

- At least one regular education teacher
- Bilingual personnel
- Principal or administrator
- Parent
- Special Education teacher
- School Psychologist
- School Nurse
- Counselor or specialists
- Speech/Language pathologists`
- Interpreters (as needed)
- Pupil (as appropriate)
- Others

3.4 B STUDENT STUDY TEAM RESPONSIBILITIES

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

3.5 ASSESSMENT PROCEDURES FOR ENGLISH LEARNERS

After interventions have been tried and programmatic changes have occurred, some students, who have been referred to the SST will need a special education assessment.

English learners will be assessed annually using the required state testing or alternate assessment to determine English language proficiency. Special assessment requirements for students whose primary language is other than English are included in this section.

3.5 A PSYCHOEDUCATIONAL ASSESSMENTS

Assessment requirements important to English learners include the following:

1. Assessments with pupils of limited English proficiency shall be administered in the child's native language or mode of communication, unless clearly not feasible to do so (EC 56320, EC 56001).

2. Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected. (CCR, Title 5: 3023)

3. Materials are selected and administered so as not to be racially, culturally or sexually discriminatory (EC 56320, EC 56001).

4. A variety of assessment tools and strategies will be used to gather relevant functional and developmental information, including information provided by the parent (EC 56320).

5. No single procedure is used as the sole criterion for determining an appropriate educational program for an individual child (EC 56320, EC 56001).

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

1. School psychologist
2. Language and speech specialist
3. Regular education teacher(s)
4. Special education teacher
5. School nurse
6. Bilingual specialist
7. Principal/vice principal/counselor
8. Parent

3.5 B OTHER PROCEDURES FOR GATHERING INFORMATION

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

These methods may include, but not be limited to, norm referenced tests, criterion referenced tests, curriculum based measurements, systematic observations of behavior in a variety of school settings, structured interviews, progress monitoring data, etc.

3.5 C ADDITIONAL ASSESSMENT GUIDELINES

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

- Review prior school history (schooling other than in the U.S., attendance, instruction, etc.)
- Review recent and previous results of the California English Language Development Test (CELDT).
- Assess using non-language measures (e.g., performance).

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

3.6 ELIGIBILITY CRITERIA AND PROGRAM OPTIONS

3.6 A DETERMINING ELIGIBILITY

Specific eligibility criteria to determine if a child has a disability are described in Chapter 6 of the Special Education Procedural Handbook.

Please refer to Chapter 6 for specific criteria for each disability. The thirteen federal categories of disability include the following:

- Autism
- Deaf-Blindness
- Deafness
- Emotional Disturbance
- Hearing Impairment
- Mental Retardation
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impaired
- Specific Learning Disability
- Speech and Language
- Traumatic Brain Injury
- Visual Impairment

3.6 B PROGRAM OPTIONS

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

Districts need to offer appropriate resources to ensure that each English learner with a disability receives appropriate e*ducational and linguistic opportunities in the least restrictive environment.* A full continuum of program options will be available to each special education student. To the maximum extent appropriate, children with disabilities are educated with children who are not disabled.

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

1. Regular education program with specially designed modifications.

2. Regular education classroom with resource specialist and/or designated instruction and services (DIS).
3. Regular education classroom with services or support from a special day class teacher and/or designated instruction and services.
4. Special Classes and Centers.
5. Nonpublic, nonsectarian school services.
6. State special schools.

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

3.7 IEP DEVELOPMENT FOR ENGLISH LEARNERS WITH DISABILITIES

The Individualized Education Program (IEP) teams should ensure that:

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

Other requirements include:

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

3.7 A LINGUISTICALLY APPROPRIATE GOALS, OBJECTIVES AND PROGRAMS

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

3.7 B IEP CONSIDERATIONS FOR ENGLISH LEARNERS

Linguistically appropriate goals and objectives have the following characteristics:

- They are appropriate for the cognitive level of the student.

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

3.7 C ADDITIONAL LINGUISTIC AND CULTURAL CONSIDERATIONS

Culturally appropriate goals and objectives have the following characteristics:

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

CHAPTER 4 – INTERDISTRICT TRANSFERS

4.1 PROCEDURES

When students require special education placement in programs other than those operated by their district of residence, or are being transferred back to their district of residence, placement shall be made in an appropriate program through a coordinated IEP team meeting involving the district of residence and the district of services. While the procedure outlined below emphasizes the importance of cooperation and collaboration, and while it is incumbent upon the district of service to execute its responsibility as if it were the district of residence, it is understood that in all cases where a child is placed out of his/her district of residence, ultimate responsibility for placement, program, and due process issues remain with the district of residence. For the purposes of this document, the Mendocino County Office of Education is considered to be, and referred to as, a "district". This policy does not apply to the intra-district transfer of students from one classroom to another within the same district. It is clearly understood that intra-district transfers, matriculations or new class assignments will be facilitated to the maximum extent possible by the district.

I. The administrator, or designee of the district of residence shall:

A. Ensure that all of the following data is accurate and present for review:
Student Name
Birth Date
Parent Names
Address
Phone Number(s)

All medical and/or health and developmental assessment information must be current. Academic assessments will have been conducted within the academic year and a psychological evaluation within five months of the impending transfer. The district of residence must have completed all psychological and academic assessments prior to the student's entry into the district of service's program.

B. Notify the administrator or designee of the potential district of service of the request to consider a student for placement, and provide an opportunity for a staff member from the potential district of service to observe the pupil in question.
C. Distribute copies of all assessment reports and IEP's to appropriate staff of the district of service at least three days in advance of the scheduled joint IEP team meeting.
D. Coordinate the opportunity for parents to visit potential program placements.
E. Coordinate the scheduling and notification of parents and staff members of both districts of the joint IEP team meeting.
F. Coordinate with the district of service, the arrangements for transportation of the student to the new school. In all cases, the district of residence is financially responsible for all transportation.
G. Conduct the joint IEP team meeting and assume all of the duties described for IEP team meetings.
H. Forward all relevant student records to the district of service as soon as possible after the joint IEP team meeting.

II. The administrator or designee of the district of service shall:

A. Send a representative with authority to commit district resources to all IEP team meetings called for this purpose.
B. Invite appropriate district of residence special education staff to annual IEP review meetings.

C. Assure that the IEP team identifies all programs and services with a clear delineation of which district provides the service including transportation.
D. Within ten days of the IEP meeting, notify the district of residence and the SELPA of all costs associated with the student's placement that will be included in a memorandum of understanding.

III. When a student transfers to a district or county office program with an outdated or lapsed IEP (one that does not meet timelines for annual IEP's or triennial assessment), the sending district retains the responsibility to bring it up to date within 30 days of placement. The sending district will be notified of the overdue IEP and/or assessment within five days of enrollment in the new placement.

IV. In the event that an appropriate placement cannot be found by the district of residence administrator or designee, a request for assistance should be made to the SELPA Office.

CHAPTER 5 – CONFIDENTIALITY OF PUPIL RECORDS

5.1 PURPOSE AND SCOPE

Local Educational Agencies (LEAs) must establish policies, procedures and rights related to confidentiality of pupil records. Policies and procedures must be consistent with State and federal laws and regulations, including the Family Educational Rights and Privacy Act of 1974 (FERPA). Procedures describe the required notice to parents, right to access pupil records, record keeping procedures, retention and destruction of pupil records, and requests for amendment of pupil records.

5.2 PARENT RIGHT TO ACCESS

Parents have the right to inspect and review all education records that relate to their child with respect to the identification, assessment, and educational placement of the child and the provision of a free, appropriate public education, which are collected, maintained, or used by agency.

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

5.2 A DEFINITION OF PARENT

Natural parent; adoptive parent; legal guardian; child, the child himself (if of legal age, 16 years or 18 years or completed tenth grade, depending upon the purpose); or a surrogate parent who has been appointed. If the parents are divorced or legally separated, only the parent having legal custody may challenge the contents of a record, offer a written response to a challenged record, or consent to the release of records to others, provided however, that either parent may grant consent if both parents have notified, in writing, the school or school district that such an agreement has been made. Both parents have an unqualified right to see all materials in their child's file, unless there is a court order the contrary.

5.2 B DEFINITION OF ACCESS

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

5.3 NOTICE TO PARENTS

Parents must be notified, in writing, of their rights to inspect and review the school records of their children. This must be done at the time of initial enrollment and annually thereafter. Notice should be in their native language and include information on policies, procedures, and rights related to record keeping including the

Family Educational Rights and Privacy Act of 1974 (FERPA). The notice will contain the following specific information:

- The types of records and information contained therein.
- The position of the official responsible for the maintenance of each type of record.
- The location of the log or record required to be maintained.
- Criteria used by the district to define "school officials and employees" and in determining "legitimate educational interest."
- The policies of the district for reviewing and expunging records.
- The right of the parent to access pupil records.
- The procedures for challenging the content of pupil records.
- The cost, if any, charged to the parent for reproducing copies of records.
- The categories of information which the institution has designated as directory information.
- Any other rights stated in the California Education Code and the right to file a complaint with Department of Health, Education and Welfare (FERPA).
- Notice of all locations where copies of the policies and procedures regarding the General Education Provisions Act and confidential pupil records may be obtained.

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

5.3 A RECOMMENDED PROCEDURES

If a parent wishes to inspect school records, they complete and return "Parent Request for Access to Pupil Records." (Refer to sample on Page A- 1.) When this form is returned, it should be time/date stamped to show when it was received by the school office. Enter program, dates of attendance, teacher and principal on lower portion of form. Log date received, pupil name and program name in the "Parent Access Request Log." (Refer to sample on Page A-2.)

The request is given to a certificated staff member who interprets the records where necessary. The certificated staff member schedules an appointment with the parent within five days and reviews the contents of the pupil's folder with the parent. If photocopies are requested, copy the requested material immediately if possible. If not possible, mail to the parent within one or two days of the request. The Request Form is filed in pupil's folder.

Even though records from physicians may be stamped "Confidential" or a psychologist's report contains sensitive or potentially upsetting information, the parent or eligible student has full rights of access.

(EC 49061, 49063)

5.4 SAFEGUARDS

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

One official at each agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state policies and procedures as stated in the annual program plan.

5.5 RELEASE OF INFORMATION FROM PUPIL RECORDS

5.5 A RELEASE OF DIRECTORY INFORMATION

(1) At the time of enrollment, and annually thereafter, parents must be given an opportunity to sign an "Objection to Release of Directory Information" Form. When the Form is returned by the parent to the school, the school must file it in the pupil's records.

(2) If the parents have not filed an objection, the following directory information may be supplied to employers, prospective employers, representatives of the news media, officials of public agencies and nonprofit agencies:

- Name
- Address
- Telephone
- Date & place of
- Major field of study
- Dates of attendance
- Degrees and awards received
- Participation in officially recognized activities and sports
- Weight/height of members of athletic teams
- Most recent public or private school attended by student

5.5 B RELEASE OF INFORMATION NOT REQUIRING PARENT/GUARDIAN AUTHORIZATION

The following categories of individuals and agencies are recognized as maybe having a "legitimate educational interest" in the contents of a pupil's educational records, and if so, be granted access without written parental consent:

- School officials, including teachers within the educational agency who have a legitimate educational interest, and members of attendance review boards.
- Officials of other schools or school systems in which the student seeks or intends to enroll.
- Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, or by State Educational authorities.

State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974.

- Parents of pupils 18 years or older who are dependents as defined in the IRS Code.
- Pupils 16 years or older or having completed the tenth grade who request access.

- Education Code section 49076 also requires access without written parental consent of any district attorney participating in or conducting a truancy mediation program or in the prosecution of a truancy petition; a prosecuting agency concerning the failure of a parent or guardian to comply with the compulsory education law; a probation officer or district attorney for the purpose of criminal investigation or investigation of a student who has been declared a ward of the court or involving a condition of probation. However, the federal government has stated that the release to such persons would be a violation of federal law (FERPA). For that reason, before information is released to such persons or agencies the District should require that a court order be issued.
- Subject to regulations of the Secretary in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.
- Agencies or organizations in connection with a student's application for, or receipt of, financial aid.
- County Election Officials,
- Accrediting organizations in order to carry out their accrediting functions.
- Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.
- Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll. Upon such requests, the requester must notify the parent of his right to receive a copy of the record and the right to challenge the content of the record.

A school district is not authorized to permit access to pupilrecords to any person (except those specified above) without parental or eligible student consent or under judicial order. Information concerning a student shall be furnished in compliance with a court order. The school district shall make a reasonable effort to notify the parent and the pupil in advance of such compliance if lawfully possible within the requirements of the judicial order.

5.5 .C CONSENT TO RELEASE STUDENT RECORDS

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

(EC 49061, 49073, 49076)

5.6 LOG OF REQUESTS FOR INFORMATION

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

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

Recommended Procedure:

- Upon receipt of a written request for "directory" information from a group authorized to receive it, check pupil folder for "objection to release" form. (If no objection form is present, supply information). The law does not require logging requests for directory information.
- If request is oral, verify identity of requester by calling back. If any doubt as to identity of requester, require a request submitted in writing, on official letterhead.
- Upon receipt of a written request for information, ascertain whether or not it falls into the authorized categories as defined in Section above. If it does, supply the information as explained above. If it does not, log request and mail the requester an Exchange of Information form accompanied by the form letter (Appendix A-3).
- When the Exchange of Information form is returned to you, supply information together with transmittal letter (Appendix A-4). The law does not require logging of requests accompanied by authorization.

(EC 49064)

5.7 AMENDMENT OF RECORDS

5.5 A GROUNDS FOR AMENDMENT

If parents desire to challenge the content of pupil records, they must establish that one of the following specific grounds exists and provide a written request to correct or remove the information to the superintendent.

Grounds for amendment include:

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

(EC 49070)

5.7 B HEARING PROCEDURES

- Within thirty (30) days after receipt of a written request a superintendent or designee meets with the parent and the certificated employee who recorded the information, if the employee is presently employed by the District.

- The superintendent may sustain or deny the allegations of the parent, either permitting the record to stand or authorizing its removal and destruction.

- Within thirty (30) days the parent may file a written appeal to the governing board if the parent is dissatisfied with the decision of the superintendent.

- Within thirty (30) days after receipt of such an appeal the governing board must hold a closed hearing with the parent and with the teacher, if he or she is still employed by the District. The Board's decision is final. Records of the hearing are confidential and are to be destroyed after one year unless further legal action is pending.
- As an alternative, the superintendent and the governing board may convene a hearing panel if the parent gives written consent to release the relevant pupil's records to the members of the panel. The hearing panel consists of the chairperson who is a school principal in a school other than the one where the record is located, a certificated employee appointed by the parent, and a parent, appointed by the superintendent or the governing board, who is not acquainted with the pupil.

- The hearing panel meets in closed session to hear from the parent and the teacher who recorded the information, if available. The panel is provided with copies of the record in question and makes written findings of fact and a written decision.

- The findings of the panel are forwarded to the superintendent or the governing board depending on who convened the panel.

- The proceedings of the panel may not be disclosed or discussed by panel members except in their official capacity.

- If, as a result of the hearing, the agency does not agree with the parent, it will inform the parent of the right to place in the child's records a statement commenting on the record or explaining any reasons they disagree with the decision of the agency.

  (EC 49070, 49071)

5.8 RETENTION AND DESTRUCTION OF PUPIL RECORDS

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

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

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

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

5.8 A MANDATORY PERMANENT RECORDS

Mandatory Permanent Records include:

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

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

Mandatory Permanent Records that have been in inactive status for five years shall be microfilmed.

(5CCR 430,432)

5.8 B MANDATORY INTERIM RECORDS

Mandatory Interim Records are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. These records must be forwarded to all California schools and may be forwarded to other schools. Such records include:

- Access log
- Health records
- Participation in special education programs including required tests, case studies, authorizations and actions necessary to establish eligibility or discharge
- Language training records

- Progress slips and/or notices as required by Education Code Sections 49066 and 4906
- Parental restrictions regarding access to directory information or related stipulations
- Parent rejoinders to challenged records and to disciplinary action
- Parental authorizations or prohibitions of pupil participation in specific programs
- Results of standardized tests administered within the preceding three years

(5CCR 430, 432)

5.8 C PERMITTED RECORDS

Permitted Records include:

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

(5CCR 430, 432)

5.8 D DESTRUCTION PROCEDURES

1. Destruction of Permitted Records

Permitted pupil records may be destroyed when their usefulness ceases. They may be destroyed after six months following the pupil's completion of or withdrawal from the educational program.

(5CCR 437)

2. Destruction of Mandatory Interim Records

Unless forwarded to another district, mandatory interim pupil records may be adjudged to be disposable when the student leaves the district or when their usefulness ceases. Destruction shall occur during the third school year following such classification.

(5CCR 437)

5.9 CONFIDENTIALITY OF PUPIL RECORDS CONTAINING I.Q. INFORMATION

The following guidelines implement the California State Department of Education Directives dated December 3, 1986, and October 15, 1987, regarding the use of I.Q. tests in the assessment of African-American pupils for special education services.

As of September, 1986, school districts may not use intelligence tests in the assessment of African-American pupils who have been referred for special education services. The prohibition against using I.Q. tests for

identifying or placing African-American pupils in special education means that parents of African-American pupils shall not be asked if they want to consent to the use of such tests. An I.Q. test may not be given to an African-American pupil even with parental consent. There are no special education related purposes for which I.Q. tests shall be administered.

5.9 A I.Q. TEST PROTOCOLS

When a school district receives records containing I.Q. test protocols from other agencies, out-of-state school districts, military facilities, or independent assessors, these records shall be forwarded to the parent. I.Q. test scores contained in the records shall not become a part of the pupil's current school record.

5.9 B PRE-EXISTING RECORDS CONTAINING I.Q. SCORES OR REFERENCES TO INFORMATION FROM I.Q. TESTS MUST BE PERMANENTLY SEALED

Before sealing the records of these students:

- The parents must be notified that the records will be sealed because of a court decision which prohibits the use of intelligence tests for African-American students for any purpose related to special education. (Appendix A-7)
- A qualified professional (school psychologist) will identify appropriate data contained in the student's educational records that is an I.Q. score or information that was obtained from or relates to an intelligence test.
- The school psychologist will seal all I.Q. related information as described below.
- The school psychologist will purge the I.Q. related information from the educational records. The remaining information will then become part of the student's educational record.

5.9 C RECORD SEALING PROCEDURE

The school psychologist will place all I.Q. related information in an envelope provided by the school district and seal the envelope. He/she will label the outside of the envelope with the student's name and a notation that the envelope contains sealed educational records and may not be opened. The outside of the envelope shall also indicate that the Director of Special Education must be consulted for information concerning the contents of the envelope.

Sealed records must be maintained by the district for five years.

The sealing process must be completed before a student is reevaluated for special education or transfers to a new district.

5.10 PROOF OF SERVICE BY MAIL FORM

5.10 A PURPOSE

The purpose of a Proof of Service by Mail form is to create a legal presumption of service of the document(s) by mail. The presumption created may be legally rebuttable when service becomes an issue during a court or administrative proceeding.

5.10 B RECOMMENDED PROCEDURES

1. Fill out form as follows (Appendix A-7).

    - Signer—the person who will actually mail the document(s). This should be a district employee, who would not be directly connected with a potential court or administrative proceeding. A secretary would be a logical person to mail the document(s) and sign the form.
    - Mailing Address—It is imperative that the most current address according to the district's records or knowledge be used.

2. Prepare and sign form. Attach a copy of the signed form to the documents being mailed.

3. Check the appropriate box concerning the method of mailing, which can include the use of the District mail room.

4. Keep the signed original in the student's file as proof of service of the documents by mail.

APPENDIX A-1

PARENT REQUEST FOR ACCESS TO PUPIL RECORDS

We/I, the parent(s) ofhereby request to examine and review his/her school records, as provided under Public Law 101-476, The Individuals with Disabilities Education Act. I understand that I will be contacted within five school days after receipt of this request to schedule an appointment.

Parent/Guardian Signature Date

_____ _____

Parent/Guardian Signature Date

_____ _____

FOR CURRENT PUPILS, RETURN TO:

The Principal of your child's school

FOR FORMER PUPILS, RETURN TO:

Special Education Administrator

Your School District Office

APPENDIX A-2 PARENT ACCESS REQUEST LOG

DATE	PUPIL	PROGRAM	APPOINTMENT DATE	REVIEWER

APPENDIX A-3 AUTHORIZATION FOR RELEASE OF STUDENT RECORDS

Name of District/Unit/SELPA _____

AUTHORIZATION FOR RELEASE OF STUDENT RECORDS

We/I, the parent(s) of _____

authorize the release by _____

to _____ of the information

described below that is contained in his/her school record.

_____ _____

Parent/Guardian Signature Date

To be completed by Requester

Description of information requested: _____

_____

Student's Name _____ Birthdate _____

Name of School _____

Parent/Guardian _____

Address _____

Phone _____

Return to: _____

Name of Requester _____

Position of Requester _____

Address _____

Purpose of request: _____

If records are disclosed to me I understand that I may not disclose the information to any other party without prior written parental/guardian consent.

APPENDIX A-4 SAMPLE COVER LETTER FOR AUTHORIZTION FOR RELEASE OF STUDENT RECORDS

Re:_____Date _____

Dear_____

Your request for information concerning the student named above was recently received by this office. Provisions of state and federal laws require that an authorization for release of student records accompany your request.

A copy of this release form has been enclosed for your convenience. Please submit your written request and the completed release form to the undersigned for prompt processing.

Your cooperation is appreciated.

Sincerely,

SPECIAL EDUCATION DIRECTOR

Enclosure

APPENDIX A-5 SAMPLE COVER LETTER WHEN SENDING STUDENT RECORDS

Re:_____Date _____

Dear _____

Enclosed is the information you requested concerning the student named above. The transmission of this information to others without the written consent of the parent/guardian is prohibited.

Sincerely,

Enclosure

APPENDIX A-6 SAMPLE PARENT LETTER REGARDING INTELLIGENCE TEST INFORMATION

Dear Parent/Guardian:

Public schools have been instructed to seal pre-existing educational records containing intelligence scores and/or references to information from intelligence tests of African- American special education students. This action is based upon a court decision which prohibits the use of intelligence tests for African-American students for any purpose related to special education. A copy of your child's sealed records will be provided to you upon request.

Please feel free to contact this office if you have any questions.

Sincerely,

cc: Special Education Record Cumulative Record

PROOF OF SERVICE BY MAIL

1. I am over the age of 18 and **not a party to this cause.** I am a resident of or employed in the county where the mailing took place and my residence or business address is:

   _____

2. I served a copy of the following documents:

   _____

   _____

3. I served a copy of the foregoing documents by mailing them in a sealed envelope with first class postage fully prepaid, to the address stated below, as follows:

   ____I deposited the envelope with the United States Postal Service.

   ____I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

   ____I faxed a copy of the above described document to the following fax number:

   ____I caused to be hand delivered by messenger.

4. Date of Service: _____

5. Place Mailed From: _____

6. Addressed As Follows: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature _____

Date _____

CHAPTER 6 – SPECIAL EDUCATION ELIGIBILITY CRITERIA AND IEP PLANNING GUIDELINES

6.1 PURPOSE AND SCOPE

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

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

6.2 PRIOR TO REFERRAL FOR SPECIAL EDUCATION

The Student Study Team, or the referring instructional personnel, shall document that accommodations/modifications of the regular program have been attempted and that the results of those modifications have not been effective in meeting the student's need for an appropriate education. Students shall be referred for special education and related services only after the resources of the regular education program have been considered and, where appropriate, utilized.

6.3 REFERRAL

C.C.R., Title 5, Sec. 3021. REFERRAL

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

(b) All school staff referrals shall be written and include:

(1) A brief reason for the referral.

(2) Documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay time lines for completing the assessment plan or assessment.

6.4 ASSESSMENT

E.C. Sec. 56327: The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

(a) Whether the pupil may need special education and related services.

(b) The basis for making the determination.

(c) The relevant behavior noted during the observation of the pupil in an appropriate setting.
(d) The relationship of that behavior to the pupil's academic and social functioning.
(e) The educationally relevant health and development, and medical findings, if any.
(f) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate. (h) The need for specialized services, materials, and equipment for the pupils with low incidence disabilities, consistent with guidelines established pursuant to Section 56136.

C.C.R., Title 5, Sec. 3023. ASSESSMENT

(a) In addition to provisions of Section 56320 of the Education Code, assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall
(b) document this condition and note that the validity may have been affected.
(c) The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition.

E.C., Sec. 56320:

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

6.5 ELIGIBILITY CRITERIA

A pupil shall qualify as an individual with exceptional needs, pursuant to Section 56026 of the Education Code, if the results of the assessment as required by Section 56320 demonstrate that the degree of the pupil's impairment as described in Section 3030 (a through j) requires special education in one or more of the program options authorized by Section 56361 of the Education Code. The decision as to whether or not the assessment results demonstrate that the degree of the pupil's impairment requires special education shall be made by the individualized education program team, including assessment personnel in accordance with Section 56341 (d) of the Education Code. The individualized education program team shall take into account all the relevant material which is available on the pupil. No single score or product of scores shall be used as the sole criterion for the decision of the individualized education program team as to the pupil's eligibility for special education. The specific processes and procedures for implementation of these criteria shall be developed by each Special Education Local Plan Area and be included in the Local Plan pursuant to Section 56220 (a) of the Education Code.

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

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

E.C., Sec. 56030.5

"Severely disabled" means individuals with exceptional needs

who require intensive instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe mental retardation, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils under Chapter 6

(commencing with Section 56800) of this part, as it read on January 1, 1980.

SEVERE DISABILITES AND NONSEVERE DISABILITIES

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

E.C., Sec. 56030.5

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

6.5 A AUTISM

Definition:

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

A pupil exhibits any combination of the following autistic-like behaviors, to include but not be limited to:

(1) An inability to use oral language for appropriate communication.

(2) A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood.

(3) An obsession to maintain sameness.

(4) Extreme preoccupation with objects or inappropriate use of objects or both.

(5) Extreme resistance to controls.

(6) Displays peculiar motoric mannerisms and mobility patterns.

(7) Self-stimulating, ritualistic behavior.C.F.R. 300.7 (c) (1)

(8)

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

6.5 B DEAFBLINDNESS (DB)

Definition:

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

A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

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

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

6.5 C DEAFNESS (D)

Definition:

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

A pupil has a hearing impairment whether, permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination. C.F.R. 300.7(c)(3)

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

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

6.5 D HEARING IMPAIRMENT (HI) Definition:

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

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

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

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

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

6.5 E MENTAL RETARDATION (MR)

Definition:

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

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

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

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

6.5 F MULTIPLE DISABILITIES (MH)

Definition:

34 C.F.R. 300.7 (c)

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

6.5 G ORTHOPEDIC IMPAIRMENT (OI)

Definition:

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

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

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

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

6.5 H OTHER HEALTH IMPAIRMENT (OHI)

Definition:

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

A pupil has limited strength, vitality or alertness, due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's educational performance. In accordance with Section 56026 (e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Section 3001 (v).C.F.R. 300.7 (c)Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that –

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and

(ii) Adversely affects a child's educational performance.

6.5 I EMOTIONAL DISTURBANCE (ED)

Definition:

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

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

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

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

Emotional disturbance is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's education performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D)A general pervasive mood of unhappiness or depression,.

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

(ii)The term includes schizophrenia.

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

6.5 J SPECIFIC LEARNNG DISABILITY (SLD)

Definition:

E.C. 56337

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

(a) A severe discrepancy exists between the intellectual ability and achievements in one or more of the following academic areas: Oral Expression

(1) Listening comprehension
(2) Written expression
(3) Basic reading skills
(4) Reading comprehension
(5) Mathematics calculation
(6) Mathematics reasoning

(b) The discrepancy is due to a disorder in one or more of the basic psychological processes and is not the result of environmental, cultural, or economic disadvantages.

(c) The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program.

E.C. 56337.5 (a)

(a) A pupil who is assessed as being dyslexic and meets eligibility criteria specified in Section 56337 and subdivision (j) of Section 3030 of Title 5 of the California Code of Regulations for the federal Individuals with

Disabilities Education Act (20 U. S. C., Sec. 1400 and following) category of specific learning disabilities is entitled to special education and related services.

C.C.R. Tile 5, Sec. 3030

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

(1) Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, and cognitive abilities including association, conceptualization and expression.

(2) Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.

(3) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests.

(4) The decision as to whether or not a severe discrepancy exists shall be made by the individualized education program team, including assessment personnel in accordance with Section 56431(d), which takes into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:

(A) When standardized tests are considered to be valid for a specific pupil a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and a standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations, and work samples as appropriate.

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

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

(1) Data obtained from standardized assessment instruments;

(2) Information provided by the parent;

(3) Information provided by the pupil's present teacher;

(4) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
(5) Consideration of the pupil's age, particularly for young children;
(6) Any additional relevant information; and
(7) The discrepancy shall not be primarily the result of limited school experience or poor school attendance.

C.F.R. 300.7 (10)

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

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

Method 1: Regression to the mean formula:

Within the regression to the mean formula there are two ways to determine a severe discrepancy.

- The first way is to use co-normed tests. These are tests that were normed together and provide either tables or computer programs that can be used to determine a discrepancy. Examples of co-normed tests include:
    - Wechsler Intelligence Scale for Children III (WISC III) and the
    - Wechsler Individual Achievement Test (WIAT).
    - Woodcock-Johnson Psycho-Educational Battery-Revised (WJ-R).
- The second way is to use regression to the mean formula to compute the difference. This should be used with tests that are not co-normed. The formula is contained in Appendix B-1 and requires a correlation coefficient indicating the degree of relationship between the academic and intelligence tests.

Method 2: Existing State Formula:

The California Department of Education specified a formula for determining a severe discrepancy several years ago. It does not take into consideration regression to the mean. The tables in previous manuals are no longer valid since most of the tests included in the tables have been revised. With the revised editions of tests there are only two ways to determine the discrepancy using this model.

- The first way is to use the computation procedure. This option requires the use of the formula contained in Appendix B-2 and requires a correlation coefficient indicating the degree of relationship between the academic and intelligence test.

- The second way is to use the estimation procedure. This is included in Appendix B-3. It provides a procedure to estimate whether or not a severe discrepancy exists.

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

Additional Considerations:

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

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

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

6.5 K SPEECH OR LANGUAGE IMPAIRMENT (SLI)

Definition:

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

(a) Articulation disorders, such that the pupil's production of speech significantly interferes with communication and attracts adverse attention.

(b) Abnormal voice, characterized by persistent, defective voice quality, pitch, or loudness. An appropriate medical examination shall be conducted, where appropriate.

(c) Fluency difficulties which result in an abnormal flow of verbal expression to such a degree that these difficulties adversely affect communication between the pupil and listener.

(d) Inappropriate or inadequate acquisition, comprehension, or expression of spoken language such that the pupil's language performance level is found to be significantly below the language performance level of his or her peers.

(e) Hearing loss which results in a language orspeech disorder and significantly affects educational performance.

C.F.R. 300.7 (11)

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

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

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

(1) ARTICULATION

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

(1) Articulation Disorder.

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

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

(2) ABNORMAL VOICE

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

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

(3) FLUENCY DISORDER

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

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

(4) LANGUAGE DISORDER

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

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

(A) The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered

to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

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

6.5 L TRAUMATIC BRAIN INJURY (TBI)

Definition:

C.F.R. 300.7 (C)

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

6.5 M VISUAL IMPAIRMENT INCLUDING BLINDNESS (VI)

Definition:

C.F.R. 300.7 (13)

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

6.6 GOAL WRITING

Once the IEP Team has found the student eligible for special education and has identified areas of need, measurable annual goals are written (for students taking the CAPA objectives are developed). For students who are English learners the goals must be linguistically appropriate.

C.C.R., Title 5, Sec. 3001 (**s**) "Linguistically appropriate goals, objectives, and programs" means:

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

(1)(B) Instructional activities, whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under

Education Code Section 311(c), including a program provided in the individual's primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

6.7 PROGRAM PLANNING

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

The IEP Team must consider the following:

C.C.R., Title 5, Sec. 3040 (c)

The individualized education program shall show a direct relationship between the present levels of performance, the goals (and objectives if appropriate), and the specific educational services to be provided.

C.C.R., Title 5, Sec. 3042.

PLACEMENT.

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

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

In determining the educational placement of a child with a disability, the district will ensure that the placement decision is made by a group of

persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

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

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

1) Regular education classroom.
2) Regular education classroom with supplementary aids and services.
3) Regular education classroom with resource specialist services

4) Regular education classroom with related services.
5) Regular education classroom with services from a special day class teacher and supports and/or related services.
6) Special Classes and Centers.
7) Nonpublic, nonsectarian school services.
8) State special schools.
9) Residential Schools
10) Home/ Hospital

6.8 BETWEEN NINETEEN AND TWENTYTWO YEARS

E.C., Sec. 56026: (c) (4) Between the ages of nineteen and twenty- one, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her nineteenth birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216.

A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to regulations adopted by the State Board of Education, pursuant to Article 1 (commencing with Section 56100) of Chapter 2.

Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

B) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individualized education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.

6.9 SUGGESTED TRANSITION AND EXIT GUIDELINES

Special education and related services is a service that may be short term or long term in duration. It is an intervention designed to remediate deficits and address disabling conditions that prevent success in regular education curriculum. The overall goal of special education is to develop the skills necessary to successfully access the regular education curriculum. This skill development, in conjunction with appropriate supports and accommodations in the regular education program should establish a transition of decreased special education services to increased regular education services. In some cases, there may be a complete dismissal from special education. This transition and dismissal addresses the least restrictive environment principle and practice, as required of the IEP Team, which includes regular education staff when the child is currently in regular education or is being considered for regular education.

6.10 SUMMARY OF PERFORMANCE

The Summary of Performance is a new requirement under IDEA '04. The summary is prepared by the school and provided to the student when he/she leaves school, either by graduating with a general diploma or reaching the age of 22. The summary will offer the student a document that summarizes his or her academic and functional performance with recommendations about what accommodations and supports the student may need to enter post-school activities, such as training, higher education, employment, and independent living.

(ii)Summary of Performance – For a child whose eligibility under this part terminates under circumstances described in clause (i), a local education agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals. Section 614(c)(5)(B)

APPENDIX A ELIGIBILITY SUMMARY FORMS

Eligibility Summary – Autism (AUT)

Eligibility Summary – Deaf-Blindness (DB)

Eligibility Summary – Deafness (D)

Eligibility Summary – Hearing Impairment (HI)

Eligibility Summary – Mental Retardation (MR)

Eligibility Summary – Multiple Disabilities (MH)

Eligibility Summary – Orthopedic Impairment (OI)

Eligibility Summary – Other Health Impairment (OHI)

Eligibility Summary – Emotional Disturbance (ED)

Eligibility Summary – Specific Learning Disability (SLD)

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

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

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

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

Eligibility Summary – Traumatic Brain Injury (TBI)

Eligibility Summary – Visual Impairment (VI)

Eligibility Summary - Autism (AUT)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

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

□ 1. A written report from a school psychologist or other person with experience and training in working with autistic children.

□ 2. A written report from a speech/language specialist addressing verbal and non-verbal communication skills.

□ 3. The following behaviors were documented in the above written reports:

_____ 1. An inability to use oral language for appropriate communication.
_____ 2. A history of extreme withdrawal, relating, or other impairment of social interaction.
_____ 3. An obsession to maintain sameness.
_____ 4. Extreme preoccupation or inappropriate use of objects.
_____ 5. Extreme resistance to controls.
_____ 6. Displays peculiar motoric mannerisms or motility patterns.
_____ 7. Self-stimulating, ritualistic behavior.
_____ 8. _____

□ 4. Assessment/observation which indicates that the pupil's educational needs cannot be met with modification and/or resources of the regular education program."

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Deaf-Blindness (DB)

Pupil's Name_____ Birth date _____

School_____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

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

□ 1 Hearing loss, with or without amplification, as determined by a qualified audiologist.

□ 2 A written report by either a physician or an optometrist which states:

___Central visual acuity is 20/200 or less in the better eye after best correction with conventional spectacle lenses.

___Visual acuity is better than 20/200 if there is a field defect in which the widest diameter of the visual field is not greater than 20 degrees.

□ 3 Delays in communication, social, emotional, physical, and educational performance are directly related to the hearing and visual impairment.

□ 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

□ 5 Needs cannot be accommodated in special education programs solely for children with deafness or children with blindness.

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

Parent/Guardian/Surrogate Signature_____ Date_____

Eligibility Summary - Deafness (D)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

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

□ 1 Current audiological evaluation, with and without amplification, as determined by a qualified audiologist.

□ 2 The hearing impairment is so severe that there is an impairment in the processing of linguistic information through hearing with or without amplification.

□ 3 This condition affects the development of expressive or receptive communication, or both, developmental growth and/or educational performance.

□ 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

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

Parent/Guardian/Surrogate Signature_____ Date_____

Eligibility Summary - Hearing Impairment (HI)

Pupil's Name_____Birth date _____

School_____Date _____

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

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

□ 1 Current audiological evaluation, with and without amplification, as determined by a qualified audiologist.

□ 2 The hearing impairment, whether permanent or fluctuating, adversely affects:

____expressive and/or receptive communication

____developmental growth

____educational performance

□ 3 The hearing impairment, with or without amplification, makes it difficult for the pupil to process linguistic information through hearing.

□ 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

□ 5 Hearing impairment is not included under the definition of deafness.

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

Parent/Guardian/Surrogate Signature_____Date _____

Eligibility Summary - Mental Retardation (MR)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

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

□ 1 The pupil demonstrates significantly below average intellectual ability.

□ 2 The pupil demonstrates concurrent deficits in adaptive behavior.

Identified areas of weakness include:

1.

2.

3.

4.

□ 3 These deficits were manifested during the developmental period.

□ 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Multiple Disabilities (MH)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

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

□ 1 Severe Impairment: _____
Federal Classification

□ 2 Severe Impairment: _____
Federal Classification

□ 3 Additional Impairments: _____
Federal Classification

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

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Orthopedic Impairment (OI)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

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

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

___Cerebral Palsy

___Poliomyelitis

___Infections (bone and joint tuberculosis)

___Osteomyelitis

___Congenital anomalies (amputation, clubfoot, dislocations, or spinal bifida)

___Birth injury (Erb's palsy and fractures)

___Trauma (amputations, burns or fractures)

___Tumors (bone tumors or bone cysts)

___Developmental diseases (coxaplana or spinal osteochondritis)

___Other conditions (fragile bones, muscular atrophy, muscular dystrophy, Perthe's disease, juvenile rheumatoid arthritis)

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

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Other Health Impairment (OHI)

Pupil's Name_____ Birth date _____

School_____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has limited strength, vitality, or alertness, due to chronic or acute health problems. . . which adversely affect his/her educational performance. This health problem is not temporary in nature as defined by Section 3001 (v) of the Education Code.

C.F.R. 300.7 (c)(9): Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that – (i) is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and (ii) Adversely affects a child's educational performance.

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

□ 1 Documented health impairment due to _____
(may include, but not be limited to: heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, attention deficit disorder, attention deficit hyperactivity disorder, epilepsy, lead poisoning, diabetes, tuberculosis, an infectious disease, a hematological disorder, such as sickle cell anemia, hemophilia.)

□ 2 This health problem adversely affects the pupil's educational performance.

□ 3 It has been observed and documented that this pupil cannot be adequately served through other regular or categorical services offered within the regular instructional program. (E. C. Sec. 56337)

□ 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Emotional Disturbance (ED)

Pupil's Name_____Birth date _____

School_____Date _____

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

One or more must be checked:

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

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

□ 1The disturbance is of such severity that the pupil's educational needs cannot be met in the regular classroom.

□ 2The presenting educational difficulties are not due primarily to the social maladjustments. (E.C. Sec. 56026 (e)).

□ 3The presenting educational difficulties are not primarily the result of behavior disorder.

□ 4The behavior has been observed for a period of time longer than six months, and to a marked degree.

□ 5The inability to learn cannot be explained by intellectual or sensory factors or by limited school experience or poor attendance.

□ 6These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

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

Parent/Guardian/Surrogate Signature_____Date _____

Eligibility Summary - Specific Learning Disability (SLD)

Pupil's Name_____ Birth date_____

School_____ Date _____

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

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

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

_____Oral Expression
_____Reading comprehension
_____Listening comprehension
_____Mathematics calculation
_____Written expression
_____Mathematics reasoning
_____Basic reading skills

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

_____attention
_____sensory motor skills
_____visual processing
_____cognitive abilities including:
_____auditory processing
_____association
_____conceptualization
_____expression

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

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

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

Articulation Disorder:

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

ELEMENTS

(A) The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance. (B) A pupil does not meet the criteria for articulation disorder if the sole assessed disability is an abnormal swallowing pattern. ***Student demonstrates a developmental delay in production of one or more phonemes. Check one of the following:***

□ **1** **Preschool child between ages three and five:** One or more sound articulation errors delayed by at least six months.

□ **2** **Kindergarten to age eight:** One or more sound articulation errors delayed by a minimum of one year. Exception: Production of lateralized s, z, sh, ch, or j should receive therapy as soon as the sound in error goes beyond the development scale.

□ **3** **School age student age eight and above:**

(A) One or more misarticulations **and** demonstrates one or more of the following:

___Lack of stimulability in syllables/words

___Consistency or error in two more speaking situations

___Reduced intelligibility in conversational speech

(B) The two elements below must be checked to determine eligibility:

□ 1 Disorder significantly interferes with communication
□ 2 Disorder attracts averse attention

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

Abnormal Voice:

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

ELEMENTS ***All of the following must be documented:***

(When indicated, vocal assessment shall include a medical laryngeal examination.)

□ 1 The disorder adversely affects educational performance.

□ 2 The abnormal voice is noticeable to both familiar and unfamiliar listeners.

□ 3 The abnormal voice interferes with communicating.

□ 4 The abnormal voice is noticeable over a long period of time.

□ 5 The abnormal voice is inappropriate for the student's age and/or sex.

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name_____ Birth date _____

School_____ Date _____

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

Fluency Disorder:

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

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

□ 1 The student exhibits inappropriate rate or rhythm of speech.

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

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name_____ Birth date_____

School_____ Date _____

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

Language Disorder:

C.C.R. Title 5, Sec. 3030 (c) (4): The pupil has an expressive or receptive language disorder when he or she meets criteria A **or** B listed below.

ELEMENTS ***A or B below must be checked.***

□ A The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or development level on **two** or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics.

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

Language sample: Check one.

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

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

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

Parent/Guardian/Surrogate Signature_____ Date _____

Eligibility Summary - Traumatic Brain Injury (TBI)

Pupil's Name_____ Birth date _____

School _____ Date _____

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

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

□ 1. The pupil has had an open or closed head injury that has affected the following: (Check all that apply.)

_____ cognitive
_____
_____ language
_____ memory
_____
_____ attention
_____
_____ reasoning
_____
_____ abstract thinking judgment
_____
_____ problem solving

□ 2 The injury has resulted in total or partial functional disability or psychosocial impairment.

□ 3 The injury adversely affects educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

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

Parent/Guardian/Surrogate Signature_____ Date: _____

Eligibility Summary - Visual Impairment (VI)

Pupil's Name_____Birth date _____

School_____Date _____

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

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

□ 1 This pupil has a documented visual impairment:

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

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

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

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

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

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A children with a disability' means a child evaluated in accordance with Sec. 300.530-30 0.536 as having . . . visual impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature_____Date _____

CHAPTER 7 – INDIVIDUALIZED EDUCATION PROGRAM

7.1 PURPOSE AND SCOPE

The Individualized Education Program (IEP) is a written statement determined in a meeting of the IEP team, including the parent, and developed for each child with a disability.

The IEP will show a direct relationship between the present levels of academic achievement and functional performance, any assessments, the student's goals and benchmarks, and the educational services to be provided.

7.2 INDIVIDUALIZED EDUCATION PROGRAM: PROCESS

7.2 A DEVELOPMENT OF THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

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

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

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

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

(EC 56342)

The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually.

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. A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting.

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.

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,

A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program 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,

When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full-individualized education program 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 individualized education program.
(4) Progress toward alleviating the need for out-of-home care.

(30 EC 56043)

7.2 B IEP TEAM MEMBERS

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

The IEP Team shall include all of the following:

(1) One or both of the student's parents, a representative selected by a parent, or both

(2) Not less than one regular education teacher of the student, if the student is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the student, one regular education teacher may be designated by the local educational agency to represent the others. The regular education teacher of a student shall, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the student, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student.

(3) Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.

(4) A representative of the local educational agency who meets all of the following:

(a) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.
(b) is knowledgeable about the general curriculum.
(c) is knowledgeable about the availability of resources of the local educational agency.

(5) An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team.

(6) At the discretion of the parent, guardian, or the local educational agency, other individuals, who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the individualized education program team.

(7) For a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. In accordance with Section 300.310 of Title 34 of the Code of Federal Regulations, at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(8) Whenever appropriate, the individual with exceptional needs. If the IEP is for a transition – aged student, he or she is required to be a part of the IEP team. IDEA provides that the public agency must include the child with a disability at the IEP meeting "whenever appropriate", and requires that the child be invited to attend the meeting if the purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals. *Section 300.320(b)*

7.3 CHILDREN TRANSITIONING FROM EARLY START PROGRAM

An invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities coordinator or other representatives of the early education or early intervention system to assist with the smooth transition of services.

(a) For a student suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. At least one team member other than the student's regular teacher shall observe the student's academic performance in the regular classroom setting. In the case of a child who is less than school- age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(b) (1) In the case of transition services, the local educational agency shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of the needed transition services for the individual.

(2) If the individual with exceptional needs does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the individual's preferences and interests are considered.

(3) The local educational agency also shall invite to the individualized education program team meetings a representative that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the local educational agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

(4) Early education services shall be provided by the district, special education local plan area, or county office through a transdisciplinary team consisting of a group of professionals from various disciplines, agencies, and parents who shall share their expertise and services to provide appropriate services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the district, special education local plan area, or county office to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

(1) Early childhood special education.
(2) Speech and language therapy.
(3) Nursing, with a skill level not less than that of a registered nurse.
(4) Social work, psychology, or mental health.
(5) Occupational therapy.
(6) Physical therapy.
(7) Audiology.
(8) Parent to parent support.

(d) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which

plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

7.4 IEP TEAM MEMBER EXCUSAL

7.4 A IEP TEAM AREA OF CURRICULUM NOT BEING DISCUSSED

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

7.4 B IEP TEAM MEMBER AREA OF CURRICULUM OR RELATED SERVICES BEING DISCUSSED

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

(1) The parent and the local educational agency consent to the excusal after conferring with the member.
(2) The member submits in writing to the parent and the individualized education program team, input into the development of the individualized education program prior to the meeting. A parent's agreement shall be in writing.

7.5 IF PARENTS CANNOT ATTEND IEP MEETING

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

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

1. A detailed record of phone calls made or attempted and the result of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parent’s home or place of employment and the results of those visits.

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

7.6 INDIVIDUALIZED EDUCATION PROGRAM: CONTENT

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

(1) a statement of the child's present levels of academic achievement and functional performance, including:

(a) how the disability affects the child's involvement and progress in the general education curriculum;

(b) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

(c) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

(2) a statement of measurable annual goals, including academic and functional goals designed to:

(a) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(b) meet each of the child's other educational needs that result from the child's disability.

(3) a description of how the child's progress toward meeting the annual goals will be measured, and when periodic reports on progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with issuance of report cards) will be provided;

(4) a statement of the special education and related services and supplementary aids and services, based on peer- reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(a) to advance appropriately toward attaining the annual goals;

(b) to be involved in and make progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and

(c) to be educated and participate with other children with disabilities and typically developing peers in the activities described above.

(5) an explanation of the extent, if any, to which the child will not participate with typically developing peers in the regular class and extracurricular and nonacademic activities;

(6) a statement of any individual appropriate accommodations that is necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.

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

(a) the child cannot participate in the regular assessment; and
(b) the particular alternate assessment selected is appropriate for the child;

(7) the projected date for the beginning of services and modifications, and the anticipated frequency, location and durations of those services and modifications.

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

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

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

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

7.7 REVIEW AND REVISION OF THE IEP

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

In addition, the IEP team will meet when the parent or teacher requests a meeting to develop, review or revise the IEP. An IEP meeting must be held within 30 days of receipt of a written request from a parent.

The following should be included in a review

1. The results of any reevaluation,
2. Information about the child provided to, and by, the parent as required in the evaluation process;
3. The child's anticipated needs; and
4. Other matters.

5. Any lack of expected progress toward the annual goals and in the general curriculum where appropriate.

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

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

7.7 A MAKING CHANGES AND AMENDMENTS TO THE IEP

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

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

7.7 B IEP TEAM MEETINGS REQUIRED

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

(a) A student has received an initial formal assessment. The team may meet when a student receives any subsequent formal assessment.
(b) The student demonstrates a lack of anticipated progress.
(c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program.
(d) At least annually, to review the student's progress, the individualized education program, including whether the annual goals for the student are being achieved, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of the required members noted under the IEP team members section (7.2.B). Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

7.7 C CONSOLIDATION OF IEP MEETINGS

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

7.7 D ALTERNATIVE MEANS OF MEETING PARTICIPATION

When conducting IEP Team meetings, the parent of the child with a disability and the LEA may agree to use alternative means of meeting participation, such as video conferences for conference calls.

7.8 INDIVIDUALIZED EDUCATIONAL PROGRAM: CONSIDERATION OF SPECIAL FACTORS

7.8 A POSITIVE BEHAVIORAL INTERVENTIONS

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

7.8 B STUDENTS WITH LIMITED ENGLISH PROFICIENCY

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

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

7.8 C BLIND AND VISUALLY IMPAIRED

In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines that the use of Braille is not appropriate for the child.

The IEP team will make this decision after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) is conducted.

7.8 D DEAF AND HEARING IMPAIRED

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

7.8 E ASSISTIVE TECHNOLOGY

Consider whether a child requires assistive technology devices and services.

If, in considering the above special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive a free and appropriate public education, the IEP team must include a statement to that effect in the child's IEP. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP. The teachers will assist in the determination of appropriate positive behavioral interventions and strategies for the child, and supplementary aids and services, program modifications or supports for school personnel that will be provided for the child.

7.9 INDIVIDUALIZED EDUCTION PROGRAM: TRANSITIONS

7.9 A TRANSITION FROM PRESCHOOL TO ELEMENTARY SCHOOL

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

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

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

7.9 B TRANSITION FROM SPECIAL CLASS OR CENTER OR FROM NONPUBLIC, NONSECTARIAN SCHOOL TO THE GENERAL EDUCATION CLASSROOM IN THE PUBLIC SCHOOL

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

1. A description of activities provided to integrate the child into the regular education program indicating the nature of each activity and the time spent on the activity each day or week; and

2. A description of the activities provided to support the transition of students from the special education program into the regular education program.

7.9. C TRANSITION FROM SECONDARY TO POST-SECONDARY EDUCATION

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

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

If a participating agency, other than the LEA, fails to provide transition services described in the IEP, the LEA shall convene the IEP Team to identify strategies to meet the transition objectives for the child set out in the IEP.

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

(EC 56345.1; CFR 300.347, 300.348)

7.10 INTERIM PLACEMENTS

7.10 A TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE STATE

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

7.10 B TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE SAME SELPA

If the child has an IEP and transfers into a district from a district operating under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless the parent and the LEA agree to develop, adopt and implement a new IEP that is consistent with federal and state law.

7.10 C TRANSFERS FROM DISTRICT TO DISTRICT FROM OUTSIDE OF STATE

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

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

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

(EC 56325)

CHAPTER 8 – SPECIAL EDUCATION PROGRAMS AND SERVICES

8.1 PURPOSE AND SCOPE

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

The IEP Team will select the program or combinations of programs that can meet the student's needs in the least restrictive environment (LRE), allowing for maximum interaction with typically developing peers

8.2 LEAST RESTRICTIVE ENVIRONMENT

8.2 A DEFINITION

To the maximum extent appropriate, children with disabilities are educated with typically developing peers. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

8.2 B LEAST RESTRICTIVE ENVIRONMENT REQUIREMENTS

Least restrictive environment (LRE) requirements include the following:

(1) The child's placement will be as close as possible to the child's home.
(2) Unless the IEP requires some other arrangement, the child will be educated in the school that he or she would attend if non-disabled.
(3) In selecting the least restrictive environment, consideration will be given to any potential harmful effect on the child or on the quality of services that she or he needs.

(4) A child with a disability will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.
(5) In providing or arranging for the provision of nonacademic and extracurricular services and activities, the district will ensure that the child with the disability participates with non-disabled children in those services and activities to the maximum extent appropriate to the needs of that child.
(6) Special classes may enroll a student only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services, including curriculum modifications and behavioral support, cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of students from the regular education environment.

(EC 56364, 56364.2; 5 CCR 3042; CFR 3 00.550)

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

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

(EC 56360, 56361; CFR 300.551, 300.26)

8.3 CONTINUUM OF PROGRAM OPTIONS

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

(a) Regular education programs with specially designed modifications.
(b) Regular education classroom with resource specialist services.
(c) Regular education classroom with related services.
(d) Regular education classroom with services from a special day class teacher and supports and/or related services.

8.3 A SPECIAL CLASSES AND CENTERS

Instruction in settings other than classrooms where specially designed instruction may occur.

Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed.

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

8.3 B NONPUBLIC, NONSECTARIAN SCHOOL SERVICES

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

8.3 C STATE SPECIAL SCHOOLS

Placements in state special schools pursuant shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area.

8.3 D RELATED SERVICES

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

LANGUAGE AND SPEECH DEVELOPMENT AND REMEDIATION

The related service in language speech and hearing may include:

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

(2) Consultative services to students, parents, teachers, or other school personnel in the management of a student's language, speech development, or hearing needs.

(3) Coordination of speech and language services with a student's regular and special education program.

(4) The person providing instruction and services shall hold an appropriate credential with specialization in language, speech and hearing

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

EC 56363.3

The maximum caseload for a speech and language specialist providing services exclusively to individuals with exceptional needs, between the ages of three and five years, inclusive, as defined in section 56441.11 or 56206, shall not exceed a count of 40. EC 46441.7 (a)

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

EC 56363

AUDIOLOGICAL SERVICES

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

(1) Aural rehabilitation (auditory training, speech reading, language habilitation and speech conservation) and habilitation with individual students or groups and support for the hearing-impaired students in the regular classroom.

(2) Monitoring hearing levels, auditory behavior, and amplification for all students requiring personal or group amplification in the instructional setting.

(3) Planning, designing, organizing and implementing an audiology program for individuals with auditory dysfunction, as specified in the IEP.

(4) Consultative services regarding test findings, amplification needs and equipment, ontological referrals, home training programs, acoustic treatment of rooms, and educational management of the hearing-impaired individuals.

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

ORIENTATION AND MOBILITY INSTRUCTION

Related services in orientation and mobility may include the following:

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

INSTRUCTION IN THE HOME AND HOSPITAL

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

(1) Instruction and services for individuals with disabilities whose physical condition requires their confinement for prolonged periods of time and who require long-term instruction at home or in a hospital. The IEP team must recommend this service.
(2) Instruction and service for individuals with disabilities, whose disability restricts their capability to attend school, and whose instructional goals include both academic and rehabilitative services. This service must be recommended by the IEP team and is regarded as an interim placement.
(3) An individual with disabilities who is enrolled in home or hospital instruction shall receive 300 minutes per week of individual instruction or small group instruction of not more than four individuals, as specified in the IEP by the IEP team. Instruction of less than 300 minutes per week may be permitted if the IEP team feels that the individual's health prevents a full 300 minutes.

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

ADAPTED PHYSICAL EDUCATION (APE)

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

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

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

PHYSICAL AND OCCUPATIONAL THERAPY

When the district, SELPA or county office contracts for the services of a physical therapist or an occupational therapist, the following standards shall apply:

(1) Occupational or physical therapists shall provide services based upon recommendation of the IEP Team. Physical therapy services may not exceed the services specified in the Business and Professions Code at Section 2620.

(2) The district, SELPA, or county office shall assure that the therapist has available safe and appropriate equipment.

(3) A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the educational standards of the Physical Therapy Examining Committee.

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

VISION SERVICES

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

(1) Adaptations in curriculum, media, and the environment, as well as instruction in special skills.

(2) Consultative services to students, parents, teachers, and other school personnel.

(3) The person providing services shall hold an appropriate credential with specialization in the area of the visually impaired.

SPECIALIZED DRIVER TRAINING INSTRUCTION

Specialized driver training instruction may be given to any individual with a disability that requires additional driver training to supplement the regular driver-training program. The IEP team shall determine the need for supplemental driver training.

The need to supplement the regular program shall be based on an assessment of the student's health, physical, and/or educational needs that require modifications, which cannot be met through a regular driver-training program.

Qualified teachers as defined by Education Code Sections 41906 and 41907 must provide driver training.

COUNSELING AND GUIDANCE

Counseling and guidance services may be provided to an individual with a disability that requires additional counseling and guidance services to supplement the regular guidance and counseling program. The IEP team shall determine the need for additional guidance and counseling services. Services may include:

(1) Educational counseling in which the student is assisted in planning and implementing his or her immediate and long-range educational program.

(2) Career counseling in which the student is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions.

(3) Personal counseling in which the student is helped to develop his or her ability to function with social and personal responsibility.

(4) Counseling and consultation with parents and staff members on learning problems and guidance programs for students.

(5) The individual performing counseling services to students shall be qualified.

PSYCHOLOGICAL SERVICES

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

(1) Counseling provided to an individual with disabilities by a credentialed or licensed psychologist or other qualified personnel.

(2) Consultative services to parents, students, teachers and other school personnel.

(3) Planning, managing and implementing a program of psychological counseling for eligible children and parents as specified in the IEP.

PARENT COUNSELING AND TRAINING

Parent counseling and training may include:

(1) Assisting parents in understanding the special needs of their child, and

(2) Providing parents with information about child development.

HEALTH AND NURSING SERVICES

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

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

(2) Consulting with staff members regarding management of the individual's health problems;

(3) Providing group and individual counseling with the individuals and parents regarding health problems; and

(4) Making appropriate referrals and maintaining communication with health agencies providing care to individuals.

SOCIAL WORK SERVICES

Personnel providing social worker services shall be qualified. Social work services may include:

(1) Individual and group counseling with the individual and his or her immediate family;

(2) Consultation with students, parents, teachers, and other personnel regarding the effects of family and other social factors on the learning and developmental requirements of individuals with disabilities; and

(3) Developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the student, the family, and the various agencies providing social, income maintenance, employment development, mental health, or other developmental services.

SPECIALLY DESIGNED VOCATIONAL EDUCATION AND CAREER DEVELOPMENT

Personnel providing vocational education services shall be qualified.

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

(1) Providing prevocational programs and assessing work-related skills, interest aptitudes, and attitudes;

(2) Coordinating and modifying the regular vocational education program;

(3) Assisting individuals in developing attitudes, self- confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community;

(4) Establishing work training programs within the school and community;

(5) Assisting in job placement;

(6) Instructing job trainers and employers as to the unique needs of the individuals;

(7) Maintaining regularly scheduled contact with all workstations and job-site trainers; and

(8) Coordinating services with the Department of Rehabilitation, the Department of Employment Development and other agencies as designated in the IEP.

TRANSITION SERVICES

The term “transition services’ means a coordinated set of activities for a child with a disability that:

- is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

- is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and

- includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional evaluation.

RECREATION SERVICES

Recreation services include but are not limited to the following:

(1) Therapeutic recreation services which are those specialized instructional programs designed to assist students in becoming as independent as possible in leisure activities, and when possible and appropriate, facilitate the student's integration into regular recreation programs;

(2) Recreation programs in schools and the community which are those programs that emphasize the use of leisure activity in the teaching of academic, social, and daily living skills; and, the provision of nonacademic and extracurricular leisure activities and the utilization of community recreation programs and facilities; and

(3) Leisure education programs which are those specific programs designed to prepare the student for optimum independent participation in appropriate leisure activities, including teaching social skills necessary to engage in leisure activities, and developing awareness of personal and community leisure resources.

SPECIALIZED SERVICES FOR LOW INCIDENCE DISABILITIES

Specialized services for low incidence disabilities may include:

(1) Specially designed instruction related to the unique needs of students with low-incidence disabilities.

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

(3) Services will be provided by appropriately credentialed teachers.

SERVICES FOR PUPILS WITH CHRONIC ILLNESSES OR ACCUTE HEALTH PROBLEMS

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

(1) Individual consultation;

(2) Home or hospital instruction; and

(3) Other instructional methods using advanced communication technology.

SERVICES FOR DEAF AND HARD OF HEARING STUDENTS

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

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

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

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

INDIVIDUAL AND SMALL GROUP INSTRUCTION

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

8.3 E RESOURCE SPECIALIST PROGRAM/NON INTENSIVE SERVICES

PROGRAM DESCRIPTION

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

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

PROGRAM STAFFING

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

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

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

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

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

(EC 56362)

8.3 F SPECIAL CLASSES/INTENSIVE SERVICES

PROGRAM DESCRIPTION

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

The following standards for special classes shall be met:

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

(b) A special class shall be composed of students whose needs as specified in the IEPs can be appropriately met within the class; Students in a special class shall be provided with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group;

(c) When a student can benefit by attending a regular program for part of the day, the amount of time shall be written in the IEP;

(d) Students with low incidence disabilities may receive all or a portion of their instruction in the regular classroom, while being enrolled in special classes taught by an appropriately credentialed teacher, who serves these students at one or more school sites, with instruction provided consistent with state guidelines; and

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

PROGRAM STAFFING

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

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

The procedure for allocation of **aides** for special classes shall be specified in the local plan. Additional aide time may be provided when the severity of the handicapping conditions of the pupils or the age of the pupils justifies it, based on the individualized education programs.

5CCR3053

8.3G NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCIES

When a student with disability's educational needs cannot be met in a public educational program, nonpublic nonsectarian school services shall be made available.

These services shall be provided under contract with the district, SELPA, or county office to provide the appropriate special educational facilities, special education, or related services required by the individual with disabilities, when no appropriate public education program is available.

Refer to Chapter 11 for complete information about nonpublic nonsectarian schools and agencies.

CHAPTER 9 – SUSPENSION AND EXPULSION/BEHAVIORAL INTERVENTIONS

9.1 DISCIPLINE

A student identified as an individual with disabilities pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to students without disabilities. However, an LEA may change the placement of a student with a disability for violation of school conduct codes only when certain procedural safeguards are followed.

If an action is contemplated that would potentially result in a change in placement (e.g. expulsion or a suspension for more than ten consecutive school days), the parents must be notified of that decision no later than the date on which the decision to take that action is made.

Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, the IEP team must meet to review the relationship between the child's disability and the behavior subject to the disciplinary action.

9.2 SUSPENSION

An LEA may suspend a student with a disability for up to **10 consecutive school days** without causing a change in placement**.**

9.3 SERVICES DURING SUSPENSION

Students suspended for more than 10 school days in a school year shall continue to receive services, during the period of suspension, to enable the child to participate in the general curriculum and to progress toward meeting the goals in the student's IEP, as determined by appropriate school personnel, in consultation with the teacher.

9.4 TRANSPORTATION DURING SUSPENSION

If the student with disabilities is excluded from school bus transportation for a length of time that constitutes a change of placement, the student is entitled to be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided that transportation is specified on the IEP.

9.5 PROCEDURAL SAFEGUARDS

Procedural safeguards shall be applied when a student is suspended for more than 10 consecutive school days or when a change of placement is otherwise contemplated and when a student is placed in an interim alternative educational setting (IAES), or when a change of placement is contemplated.

Not later than the date on which the decision to take action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice.

9.6 MANIFESTATION DETERMINATION

Within 10 school days of any decision to change the placement of a child with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(1) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
(2) if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

9.6 A DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION

In determining that the behavior **was** a manifestation of the child's disability, the IEP Team must:

(1) Conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the LEA had not conducted such assessment prior to such determination before the behavior resulted in change of placement.

(2) In the situation where a behavioral intervention plan has been developed, review behavioral intervention plan if the child already has such a behavioral plan, and modify it, as necessary, to address the behavior; and

(3) Except under special circumstances, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

9.6 B DETERMINATION THAT BEHAVIOR WAS NOT A MANIFESTATION OF THE DISABILITY

If the team determines that the behavior was **not** a manifestation of the disability:

(1) Student must continue to receive services to enable the student to participate in the general curriculum and to progress toward meeting the goals in the student's IEP.
(2) Receive, *as appropriate, a* functional behavioral assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.
(3) The LEA may take the proposed disciplinary action.

9.7 45 DAY REMOVAL TO IAES (SPECIAL CIRCUMSTANCES)

School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child:

(1) Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of the LEA.

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the LEA; or

(3) Has inflicted **serious** bodily injury upon another person while at school, on school premises, or at school function under the jurisdiction of a State or LEA.

The IAES shall be determined by the IEP Team.

DEFINITION OF SERIOUS BODILY INJURY

Serious bodily injury means bodily injury which involves:

(1) A substantial risk of death

(2) Extreme physical pain

(3) Protracted and obvious disfigurement; or

(4) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. 18-U.S.C. 1365(h) (3)

9.8 SERVICES DURING 45 DAY PLACEMENT

A student who is removed from current placement to 45-day placement must:

(1) Continue to receive services to enable the student to participate in the general curriculum and to progress toward meeting the goals in the student's IEP.

(2) Receive, *as appropriate,* a functional behavioral assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

9.9 DISCIPLINARY APPEAL PROCESS

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or the LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others may request a hearing.

9.10 PLACEMENT DURING APPEAL PROCESS

When an appeal has been requested by either the parent or the LEA:

The child shall remain in the interim alternative educational setting pending the decision of the hearing officer until the expiration of the 45-day placement provided whichever occurs first, unless the State or LEA agree otherwise

9.11 EXPEDITED HEARING

The State or LEA shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

9.12 AUTHORITY OF ADMINISTRATIVE LAW JUDGE (ALJ)

The ALJ shall hear, and make determination regarding an appeal request. In making the determination, the AL may order a change in placement of a child with a disability. In such situations, the AL may:

(1) Return the child with a disability to the placement from which the child was removed; or
(2) Order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days, if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

9.13 PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

9.13 A BASIS OF KNOWLEDGE

A LEA shall be deemed to have knowledge that a child is a child with a disability if, before the behavior precipitated the disciplinary action occurred:

(1) The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services.
(2) The parent of the child has requested an evaluation of the child.
(3) The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

9.13 B EXCEPTION

A LEA shall not have been deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services if the child has been evaluated and it was determined that the child was not a child with a disability.

9.14 CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE

(1) If a LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities, who engage in comparable behaviors.

(2) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services. Pending the results, the child shall remain in the educational placement determined by school authorities.

9.15 PROCEDURES REGARDING POSITIVE BEHAVIORAL INTERVENTIONS

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

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

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

9.15 A DEFINITIONS OF MAJOR COMPONENTS OF THE BEHAVIOR INTERVENTION PLAN

a) "Behavioral emergency" is the demonstration of a serious behavior problem:

(1) which has not previously been observed and for which a behavioral intervention plan has not been developed; or

(2) for which a previously designed behavioral intervention is not effective. Approved behavioral emergency procedures must be outlined in the special education local planning area (SELPA) local plan.

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

c)″ Behavioral Intervention Case Manager (BICM) means a designated certificated school/district/county staff member(s) or other qualified contract person who has been trained in behavior analysis with an emphasis on positive behavioral interventions. The case manager may be any staff member trained in behavioral analysis with an emphasis on positive behavioral interventions, including, but not limited to, a teacher, resource specialist, school psychologist, or program specialist. The Behavioral Intervention Case Manager (BICM) must be certified by the SELPA as meeting the requirements for a BICM.

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

(1) a summary of relevant and determinative information gathered from the functional analysis assessment;
(2) an objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
(3) the individual's goals and objectives specific to the behavioral intervention plan;
(4) a detailed description of the behavioral interventions to be used and the circumstances for their use;
(5) specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors; including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;
(6) criteria by which the procedure will be faded or phased out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;

(7) those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings; and

(8) specific dates for periodic review by the IEP team of the efficacy of the program.

9.15 B PROCEDURES FOR DEVELOPING BEHAVIORAL INTERVENTION PLANS

GENERAL PROVISIONS

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

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

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

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

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

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

FUNCTIONAL ANALYSIS ASSESSMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IEP TEAM MEETING

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

INTERVENTION

Based upon the results of the functional analysis assessment, positive programming for behavioral intervention may include the following:

(1) Altering the identified antecedent event to prevent the occurrence of the behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum,

removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the individual);

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

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

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

ACCEPTABLE RESPONSES

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

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

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

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

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

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

EVALUATION OF THE BEHAVIORAL INTERVENTION PLAN EFFECTIVENESS

Evaluation of the effectiveness of the behavioral intervention plan shall be determined through the following procedures:

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

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

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

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

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

MODIFICATIONS WITHOUT IEP TEAM MEETING

Minor modifications to the behavioral intervention plan can be made by the behavioral intervention case manager and the parent or parent representative. If the case manager is unavailable, a qualified designee who meets the training requirements of subsection (a) (1) shall participate in such modifications. Each modification or change shall be addressed in the behavioral intervention plan provided that the parent, or parent representative, is notified of the need and is able to review the existing program evaluation data prior to implementing the modification or change. Parents shall be informed of their right to question any modification to the plan through the IEP procedures.

CONTINGENCY BEHAVIORAL INTERVENTION PLANS

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

EMERGENCY INTERVENTIONS

Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual or others and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Procedures taught by, including but not limited to programs that teach the save prevention and management of assaultive behavior such as the Crisis Prevention Institute (CPI), the Professional Assault Crisis Training (ProACT) are permitted.

Because emergency interventions pose risk of injury to students and others involved, only procedures that are designed to provide maximum safety during emergency interventions shall be permitted. Only staff members who have received training in such procedures and have demonstrated competence in their use during simulated emergency interventions shall be permitted to conduct an emergency intervention.

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

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

APPROVED EMERGENCY INTERVENTIONS

Trained staff can utilize approved emergency interventions that are included in training on safe management of assaultive behavior when a behavior emergency arises. There must exist a clear and present danger of serious physical harm to the student or others or serious property destruction and the behavior cannot be prevented by a response less restrictive than the temporary application of an intervention specifically designed to contain such behavior. Approved emergency interventions include:

- Two-person capture
- *Two-person standing restraint
- *Two-person escort
- *Two-person wall assisted restraint

*(additional trained people added as needed to achieve 100% height and weight ratio)

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

(4) EMERGENCY INTERVENTIONS THAT ARE NOT APPROVED

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

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

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

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

BEHAVIORAL EMERGENCY REPORT REQUIREMENTS

A "**Behavioral Emergency Report**" (see “Forms”) shall immediately be completed and maintained in the individual's file. The report shall include all of the following:

(A) The name and age of the individual;

(B) The setting and location of the incident;

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

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

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

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

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

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

(9) "Behavioral Emergency Report" data shall be collected by SELPAs which shall report annually the number of Behavioral Emergency Reports to the California Department of Education and the Advisory Commission on Special Education.

SELPA PLAN REQUIREMENTS

The local plan of each SELPA shall include procedures governing the systematic use of behavioral interventions and emergency interventions. These procedures shall be part of the SELPA local plan (see section 19b(i)A. Approved Emergency Interventions).

(1) Upon adoption, these procedures shall be available to all staff members and parents whenever a behavioral intervention plan is proposed (See "Publications: Positive Behavior Intervention Handbook).

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

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

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

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

(D) Approved behavioral emergency procedures.

NONPUBLIC SCHOOL POLICY

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

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

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

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

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

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

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

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

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

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

APPENDIX A DISCIPLINARY STEPS FLOW CHART

Disciplinary Steps

(More than 10 school days of removal from current placement in a school year when a change of placement occurs)

IEP Team Meeting

1. **Functional behavioral assessment/review behavior plan**
2. **Provide parents notice of rights**
3. **Manifestation issue**

Manifestation

↓

no suspension/expulsion hearing

↓

IEP Meeting

↓

Does IEP need revision?

↓

Change of placement?

no manifestation

↓

disciplinary hearing resulting in suspension/expulsion

↓

IEP Revision to continue FAPE

CHAPTER 10 – MENDOCINO COUNTY OFFICE OF EDUCATION

10.1 SPECIAL EDUCATION PROGRAM DESCRIPTIONS

EARLY START PROGRAM FOR INFANTS AND TODDLERS

The Mendocino County Office of Education (MCOE), Early Start Program for Infants and Toddlers provides early educational intervention for infants all eligible disabilities included by not limited to toddlers with hearing, vision and/or orthopedic impairments.

The program is a family focused program based on the premise that parents and caregivers are the most important teachers in a young child's life. We believe that all children have the ability to grow and to learn and that learning is optimal in natural environments when care-givers and professionals collaborate as a team.

EARLY CHILDHOOD EDUCATION SERVICES

Early Childhood Education (ECE) services (for children three through five years) are provided by district programs for preschool children with intensive special education needs.

DESIGNATED INSTRUCTIONAL SERVICES

- **Assistive Technology/Augmentative and Alternative Communication** – Assistive Technology (AT) is a device or software designed to assist a person with a disability. Augmentative and Alternative Communication (AAC) teaches non-speech modes of communication. Mendocino County Office of Education ACCESS Team provides assessment and consultation to districts by assisting school personnel in determining equipment, software, hardware and/or strategies that will enable their students to successfully achieve IEP goals and objectives. Services are determined through screening and assessment and include training of student, staff and family in the use of AT and AAC devices.

- **Integrated Services for Students with Hearing Impairments -** The purpose of the Integrated Hearing Impairment Services of the Mendocino County Office of Education (MCOE) is to maximize a student's participation in the most appropriate learning environment by providing academic support, auditory training, and language expansion for students whose hearing loss adversely affects educational performance. These services are provided in the resident school district setting in which the student receives his/her educational services.

- **Integrated Services for Students with Visual Impairments -** Integrated Visual Impairment Services of the Mendocino County Office of Education (MCOE) are provided to maximize the individual student's participation in the most appropriate learning environment utilizing a team approach. The primary goal is to provide services to students with visual impairments and assist them in realizing their potential to become capable adults and function as independently as possible in the community. Services include provision of learning materials in an appropriate medium such as Braille, large print and/or audio materials, training in adaptive technology, consultation with the classroom teacher, academic support

and instruction in daily living, recreational and social skills. Integrated Visual Impairment Services are provided at school sites and/or in the community.

- **Orientation and Mobility Services –** Orientation and Mobility Services are available for students with visual impairments who may require special instruction in order to maximize their ability to travel safely and independently. Services are provided on an individual basis. In addition to teaching safe and efficient travel, the Orientation and Mobility Specialist may teach a variety of prerequisite skills such as concept development, sensory training, orientation to the environment, motor development.

- **Speech and Language Services** – Mendocino County Office of Education speech therapists provide support to small district students, to classroom staff, and to parents in implementing student communication programs. Speech and language specialists may work with students individually or in groups in a variety of settings.

  Areas of instruction may include voice, fluency, articulation and receptive and expressive language.

- **WorkAbility** – The WorkAbility Program provides a transitional program for students with disabilities. It integrates school-based and work-based learning for transition to "life after high school." WorkAbility assists students in finding vocational opportunities, developing an awareness of various vocational programs for adults and transitional activities such as day programs and work opportunities. The WorkAbility staff work cooperatively with local adult agencies and employers, Redwood Coast Regional Center, the Department of Rehabilitation and, when appropriate, college programs.

CHAPTER 11: NON-PUBLIC SCHOOLS/AGENCIES/PRIVATE SCHOOLS

11.1 SCHOOL/AGENCY PLACEMENT PROCESS

Before a district, special education local plan area, or county office places a student with a disability in, or refers a student to, a NON-PUBLIC, nonsectarian school, the district, special education local plan area, or county office shall initiate and conduct a meeting to develop an individualized education program.

The IEP Team may recommend a NON-PUBLIC school placement when a public school placement cannot be identified, which will appropriately implement the IEP. The IEP Team shall take steps to find an appropriate special education and/or related service placement in a public program operated by another local public education agency or the county superintendent of schools. Following determination by the IEP Team that the student requires NON-PUBLIC school placement, the school district shall, in consultation with the parents and other public agencies, which may have financial responsibilities for the placement of the individual, select one or more NON-PUBLIC schools to determine which can implement the student's IEP.

(EC 56342)

11.2 OUT OF STATE NON-PUBLIC SCHOOL PLACEMENTS

Before contracting with a NON-PUBLIC, nonsectarian school or agency outside of this state, the district, special education local plan area, or county office shall document its efforts to utilize public schools or to locate an appropriate NON-PUBLIC, nonsectarian school or agency program, or both, within the state.

If a school district, special education local plan area, or county office of education decides to place a student with a NON-PUBLIC, nonsectarian school or agency outside of this state, the LEA shall indicate the anticipated date for the return of the student to a public or NON-PUBLIC, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student.

If a district, special education local plan area, or county office places a pupil with a NON-PUBLIC, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or NON-PUBLIC, nonsectarian school or agency, or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements made outside of this state. E.C. 56365(a)

11.3 TRANSITION OF STUDENTS FROM ELEMENTARY DISRICT TO HIGH SCHOOL DISTRICT

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

When a student with a disability meets local educational agency requirements for completion of a prescribed course of study and adopted differential proficiency standards, as designated in the student's IEP, the LEA, which developed the IEP, shall award the diploma.

11.4 INIATIATION OF SERVICE CONTRACT/INDIVIDUAL SERVICE AGREEMENT

The Master Contract shall specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the NPS and the LEA to provide the special education and related services, as well as transportation specified in each student's IEP. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by each pupil. The contract may allow for partial or full-time attendance at the NPS.

The master contract shall include an individual services agreement for each student placed by a LEA that will be negotiated for the length of time for which the NPS special education and designated instruction and services are specified in the student's IEP.

The master contract shall include a description of the process being utilized by the LEA to oversee and evaluate placements in NON-PUBLIC schools, as required by federal law. This description shall include a method for evaluating whether each student is making appropriate educational progress. At least once every year, the LEA shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an IEP:

(a) Evaluate the educational progress of each student placed in a NPS including all state assessment results;

(b) Consider whether or not the needs of the student continue to be best met at the NPS and whether changes to the IEP of the student are necessary, including whether the student may be transitioned to a public school setting. This consideration shall be made at an IEP Team meeting;

(c) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to a student's IEP. At any time during the term of the contract or individual services agreement, the parent, the NPS, or the LEA may request a review of a student's IEP by the individualized education program team;

(d) Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each student's

educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the NPS and the LEA.

(e) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the student to a public school program. To terminate the contract either party shall give 20 days' notice;

(f) The NPS shall provide all services specified in an IEP, unless the NPS, and the LEA agree otherwise in the contract or individual services agreement;

(g) Related services provided pursuant to a NPS master contract shall only be provided during the period of a student's regular or extended school year program, or both, unless otherwise specified by the student's IEP;

(h) The NPS shall report attendance of students receiving special education and related services;

(i) A NPS is subject to the alternative accountability system in the same manner as public schools and each student placed in the NPS shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the department;

(j) Beginning with the 2006-07 school year testing cycle, each NPS shall determine its STAR testing period. The NPS shall determine this period based on completion of 85 percent of the instructional year at that NPS, plus and minus 10 days, resulting in a 21-day period. Each NPS shall notify the district of residence of a student enrolled in the school of its testing period. Staff at the NPS who administer the assessments shall attend the regular testing training sessions provided by the district of residence. If staff from a NPS have received training from one LEA, that training will be sufficient for all LEAs that send student to the NPS. The district of residence shall order testing materials for its students that have been placed in the NPS. The board shall adopt regulations to facilitate the distribution of and collection of testing materials;

(k) The NPS shall prepare a school accountability report card;

(l) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a LEA for students enrolled in the NPS unless provided directly or subcontracted by that NPS. If a student is enrolled in a NPS, the approval of the LEA prior to agreement to a contract or individual services agreement, the LEA shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

If after 60 days the master contract or individual services agreement has not been finalized either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the NON-PUBLIC, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this

appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract, which shall be binding upon both parties.

A master contract for special education and related services provided by a NON-PUBLIC, nonsectarian school or agency may not be authorized under this part, unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school or agency receiving approval to educate pupils under this part for a period no longer than 18 months from the date of the initial approval.

When written parental consent to the placement has been obtained, the authorized representative of the student's district of residence is responsible for initiating contract negotiations with the NON-PUBLIC school, agency or institution. The following provisions appear in Education Code 56366:

The contract shall specify the administrative and financial agreements between the NON-PUBLIC school and the district, SELPA or county office to provide the services included in the pupil's IEP. The rates determined at that time shall not be increased for the duration of the contract unless mutually agreed upon by both parties. The contract may allow for partial or full-time attendance at the NON-PUBLIC school. The administrative provisions shall include procedures for record keeping and documentation and the maintenance of school records by the contracting district, SELPA, or county office to insure that appropriate high school graduation credit is received by the pupil.

- The contract shall be negotiated for the length of time for which NON-PUBLIC school services are specified in the pupil's IEP.

- Changes in educational instruction, services or placement provided under contract may only be made on the basis of revisions to the student's IEP.

- The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract, unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract, either party shall give 20 days notice.

- The NON-PUBLIC school shall provide all services specified in the IEP, unless the NON-PUBLIC school and the district, SELPA, or county office agrees otherwise in the contract.

- All districts, SELPAs, and county office will use an "Individual Agreement for NON-PUBLIC, Nonsectarian School Agency Services" that has been approved by the State.

(EC 56366)

11.5 PROGRESS REPORTS

As specified in the original contract agreement, the NON-PUBLIC school shall provide written reports of the educational progress of individuals placed in the school.

The contractual services agreement between the educational agency and the NON-PUBLIC school agency follows the State Master Contract form (Mendocino County Approved Format) and includes the following terms and conditions pertaining to pupil progress evaluation:

- The NON-PUBLIC school is required to comply with all elements of the student's IEP.
- The NON-PUBLIC school is required to provide the IEP Team with written behaviorally specific and/or performance-based documentation of its compliance with all elements of the IEP.
- The local district is required to review, at least annually, the student's IEP and to assess and evaluate the educational progress of each student placed in NON-PUBLIC school.
- The NON-PUBLIC school shall comply with Education Code section 48911.5, which requires the NPS site principal to have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs as set forth in section 48911.
- The NON-PUBLIC school is required to allow representatives of the contracting educational agency to monitor, assess, and verify pupil progress through site visits conducted at reasonable intervals.

11.6 TRANSPORTATION OF PUPILS

The IEP Team determines whether transportation to and from the NONPUBLIC school is required as part of the student's IEP. The local district may provide transportation or may reimburse the parent or NON-PUBLIC school subject to a written agreement or contract for cost of actual and necessary travel incurred in transporting the individual with special needs at a rate to be determined by the public education agency governing board. The rate shall be no less than the rate allowed for travel by the public education agency employees.

Special education transportation services included in the NPS contract may not be provided through the use of equipment owned or leased by a district, SELPA, or county office unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency under Education Code Section 56366.

11.7 CHANGE OF PUPIL RESIDENCE

11.7.A Transfer of Student Receiving Services in NON-PUBLIC School

When an individual, receiving services in a NON-PUBLIC school, moves outside of the boundaries of the district of residence, the parent shall immediately report the change of residence to the administrator of the NON-PUBLIC school. As agreed by the terms of the contract, the contracting NON-PUBLIC school administrator shall then notify the superintendent of the public education agencies in both the former and new residence areas and the SELPA Administrator within five (5) school days. The superintendent (or designee) of the local district making payment to the NON-PUBLIC school must immediately notify the new local district of the transfer and provide a copy of the student's records, including the IEP, and the contract for services with the NON-PUBLIC school. The fiscal responsibility of the former local district shall terminate on the last day of the individual's residence in that district. Disputes regarding or relating to the residency of a special education student and corresponding financial responsibility, shall be addressed through the Dispute Resolution Process contained in the Mendocino County SELPA Local Plan for Special Education. In order to ensure the continuity of special education services pending resolution of any dispute regarding fiscal responsibility for a special education student, the local education agency with fiscal responsibility for the student's special education services prior to the dispute having arisen shall continue to pay for such services until the dispute resolution process has been completed. A local education agency required to continue paying for special education services pending dispute resolution may recover such expenses from the responsible district if it is determined, in the course of the dispute resolution process, that that the local education agency was not responsible for such expenses.

Within (15) working days of receiving the student's records, the receiving district in the SELPA shall conduct a review of the pupil's IEP to determine whether or not the NON-PUBLIC school placement is still appropriate. The following factors shall be considered in determining the appropriateness of the pupil's current placement:

- No appropriate public education program is available.
- To move the individual at the time of change of residence would be harmful to the health, welfare or educational progress of the individual.
- The NON-PUBLIC school continues to be within a reasonable distance and/or travel time from the home of the individual.
- Other contingencies that necessitate the individual remaining at the NON-PUBLIC school as determined by the IEP team.

If the student's NON-PUBLIC school placement is considered appropriate in keeping with the federal mandate of the least restrictive environment, the receiving local district shall negotiate a new contract for services with the NON-PUBLIC school. If the placement is considered inappropriate, the new local district shall,

after a review of the IEP and with the consent of the parent/guardian, provide the needed special education services and facilities.

11.7.B Transfer of Student in a Residential NON-PUBLIC School

When a student was placed and residing in a residential NONPUBLIC, nonsectarian school prior to transferring to a school district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential NON-PUBLIC, nonsectarian school placement shall continue to be responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends.

(EC 56324(c))

11.8 OUT- OF- HOME PLACEMENTS

Determining the responsibility for payment for NON-PUBLIC school costs for students in out-of-home placements requires consideration of two factors:

(1) which agency placed the student (i.e., the purpose of the placement); and
(2) where the student was placed.

11.8.A Students Placed Jointly by Department of Mental Health and the LEA

The "Interagency Agreement between the Mendocino County Special Education Local Plan Area and the Mendocino County Mental Health Division" specifies the responsibilities for services and financial costs for students placed residentially.

Residential Placement:

When a student found eligible for special education as having an emotional disturbance (ED) is placed residentially under Chapter 26.5, the district in which the IEP was developed will be responsible for the monitoring of the education portion of the IEP. CMH will be responsible for assessment and provision of mental health services as delineated in the IEP.

CMH will also be responsible for case management. Mental Health will conduct quarterly face-to-face contacts at the residential facility. CMH will coordinate the scheduling of expanded IEP team meetings within six (6) months of the placement and every six (6) months thereafter.

CMH shall be responsible for authorizing payment for room and board costs to the residential facility by the Department of Social Services. Upon receipt of authorization from CMH, including documentation that the pupil is eligible for residential placement as an ED student, the County Welfare Department shall issue payments in accordance with Welfare and Institutions Code to the provider of the residential placement.

When a student with special needs is placed residentially by County Social Services or Juvenile Probation, the school district of residence is determined by the location of the residential placement. If the

legal guardians are residents of Mendocino County, Mendocino County Mental Health remains responsible for provision of mental health services under Chapter 26.5 as delineated in the IEP. Social Services or Juvenile Probation is responsible for case management and residential program costs.

If, however, a school district recommending residential placement pursuant to an IEP, will be solely responsible for the provision of a service when that service is included in an IEP by an IEP team without the recommendation of a qualified mental health professional.

(2 CCR 60600(c).)

11.8.B Residential Placements by Courts, Social Services, Regional Center and Other Public Agencies.

1. Residential Costs

Placements made by courts, social services and regional centers are not made by LEAs and are not necessary for the student to receive a free appropriate public education. In most of these cases, the child's district of residence (i.e. the district in which their parents or legal guardians reside) is not financially responsibility for the costs associated with the residential placement.

In those cases where an educational agency did not make the placement decision, the court, regional center for the developmentally disabled, or public agency (other than an educational agency) placing the individual in the institution or home will be responsible for the residential and other non-educational costs. (*EC 56159, EC 56155)*

2. Educational Costs for NON-PUBLIC School Placement Students placed in LCI/Foster Family Homes

Education Code section 56156.4 authorizes local plan areas to develop local written agreements to identify the public education entities that will provide special education and related services to eligible children in LCIs and FFHs. In accordance therewith, the members of the Mendocino County SELPA developed a policy (LCI/FFH Policy) which states that the Mendocino County Office of Education (MCOE) shall be the responsible Local Education Agency (LEA) for students (where all three of these conditions apply): (1) with educational placements in MCOE special day classes and/or NPS/NPA and *(2) whose parents reside outside of Mendocino County SELPA, and (3) who are placed by a non-educational public agency in an LCI or FFH within the County of Mendocino. For students who are placed in LCIs or FFH and whose parents reside within Mendocino County SELPA, the LEA of residence of the parent will be the responsible LEA. The district of residence may enter into an agreement with the MCOE or the LEA where the LCI or FFH is located for the provision of special education services to such student pursuant to the SELPA Policy, Student Movement between Districts.

*Local district procedures for obtaining proof of residency must be followed. Copies of proofs of residency should be forwarded to the LCI/FFH placement specialist.

In the event of a dispute regarding the residency of a parent or parents of a special education student who is placed in an LCI or FFH, an LEA may refer the matter for dispute resolution pursuant to the Mendocino County SELPA Local Plan for Special Education. In order to ensure the continuity of special education services pending resolution of any dispute regarding fiscal responsibility for a special education student, the LEA with fiscal responsibility for the student's special education services prior to the dispute having arisen shall continue to pay for such services until the dispute resolution process has been completed. That local education agency will also retain responsibility for procedural compliance with federal and state special education laws and regulations (such as by, for example, noticing and presiding at required IEP team meetings). An LEA required to continue paying for special education services pending dispute resolution may recover such expenses from the responsible LEA if it is determined, in the course of the dispute resolution process, that that the LEA was not responsible for such expenses.

For students whose parents reside outside the SELPA with IEP placement/services other than MCOE special day class or NPS/NPA then the district where the LCI or FFH is located shall be the responsible LEA.

If a student is placed in an LCI/NPS by an educational public agency, then the LEA that made the placement in the LCI/NPS, not the MCOE, will be the responsible LEA for providing special education and related services to that student.

If a student who is placed in a LCI by a non-educational public agency is subsequently placed by the special education hearing office in a non-certified private school then the MCOE shall be the responsible LEA.

When a student who has been identified eligible for special education services is initially placed in a LCI/FFH, the contact shall first be made to the LEA administrator where the LCI/FFH is located. Upon review of the IEP the LEA Administrator shall determine whether an administrative placement is likely in an MCOE/SDC or NPS/NPA. In such a case the LEA Administrator shall contact the SELPA Program Specialist who shall work collaboratively with the LEA Administrator to affect implementation of the student's IEP. If upon review of the IEP, the LEA Administrator determines placement other than MCOE/SDC or NPS/NPA is appropriate; the LEA shall implement the IEP as the responsible LEA. A flowchart illustrating the assessment process pursuant to this policy is attached as Exhibit A.

For students who are deemed to be the educational responsibility of the MCOE under this policy, funding for the cost of providing special education and related services for all students SELPA-wide will be projected at the beginning of each school year and such costs will be allocated to MCOE from the SELPA funding allocation that is received from state and federal sources for that school year. Any additional funding that is received for these students from state or federal sources or from SELPA pools such as the NPS/NPA or extraordinary cost pool will also be allocated to the MCOE to offset the cost of special education and related services under this policy. Such additional

funding would include LCI impaction grant funds that would be applied for individually by each LEA where the LCI is located.

At the close of the fiscal year, appropriate adjustments will be made as needed to fully fund the costs of services under this policy. If funding for LCIs, including LCI/NPSs, is changed to a bed count allocation, all such funding will be allocated to MCOE to offset the cost of special education and related services provided under this policy, with appropriate adjustments to be made at the close of the fiscal year to fully fund the cost of such services.

If a student is unilaterally placed in an LCI by his or her parents, this placement will be treated as a private school placement pursuant to the SELPA Policy Students Enrolled in Private Schools by their parents.

11.9 HOMELESS STUDENTS: McKINNEY-VENTO ACT

SCHOOL SELECTION

According to a child or youth's best interest, Local Educational Agencies (LEAs) must either continue the child/youth's education in the school of origin, or enroll the child/youth in school in any public school that nonhomeless students who live in the attendance area where the child/youth is actually living are eligible to attend.

"School of origin" is defined as the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

In determining best interest, LEAs must, to the extent feasible, keep children/youth in the school of origin, unless it is against the wishes of the parent/guardian. A homeless child or youth's right to attend their school of origin extends for the duration of homelessness.

If a child or youth becomes permanently housed during the academic year, he or she is entitled to stay in the school of origin for the remainder of the academic year.

Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year.

If the LEA sends the child/youth to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide written explanation to the parent or guardian; including the right to appeal under the enrollment disputes provision (see below).

In the case of an unaccompanied youth, the LEA homeless liaison must assist in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment disputes provisions (see below).

The choice regarding placement must be made regardless of whether the child or youth resides with the homeless parent or has been temporarily placed elsewhere.

ENROLLMENT

The school selected shall immediately enroll the child/youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

The terms "enroll" and "enrollment" are defined to include attending classes and participating fully in school activities. The enrolling school must immediately contact the last school attended to obtain relevant academic and other records.

If a child or youth lacks immunizations or immunization or medical records, the enrolling school must refer parent/guardian to the liaison, who shall help obtain necessary immunizations or immunization or medical records (See Records, below).

The Act does not prohibit LEAs from requiring parents or guardians to submit contact information.

DISPUTE RESOLUTION

The McKinney-Vento plan submitted by the State must include a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth.

If a dispute arises over school selection or enrollment, the child/youth must be immediately admitted to the school in which he/she is seeking enrollment, pending resolution of the dispute.

The parent or guardian must be provided with a written explanation of the school's decision on the dispute, including the right to appeal.

The parent/guardian/youth must be referred to the liaison, who will carry out the state's grievance procedure as expeditiously as possible after receiving notice of the dispute.

In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

RECORDS

Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth must be maintained so that the records are available, in a timely fashion, when a child or youth enters a new school or school district, and in a manner consistent with section 444 of the General Education Provisions Act

TRANSPORTATION

The State and its (LEAs) are required to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin.

If the homeless student continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange transportation. If the homeless student moves to an area served by another LEA, though continuing his or her education at the school of origin, the LEA of origin and the LEA in which the student is living must agree upon a method to apportion responsibility and costs for transportation to the school of origin. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally.

In addition, LEAs must provide services to homeless children and youth that are comparable to those received by other students in the school selected; including transportation (see comparable services, below).

ACCESS TO COMPARABLE SERVICES

Children and youth are to be provided services comparable to those received by other students in the school selected, including transportation services, and education programs for which students meet eligibility criteria, such as services provided under Title I or similar state or local programs; programs for students with disabilities; programs for students with limited English proficiency; vocational or technical programs; gifted and talented programs; and school nutrition programs.

11.10 Children with Disabilities Enrolled by Their Parents in Private Schools

11.10.A Definition of parentally-placed private school children with disabilities.

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36, other than children with disabilities covered under §§300.145 through 300.147.

11.10. B Child find for parentally-placed private school children with disabilities.

(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

(b) Child find design. The child find process must be designed to ensure:

(1) The equitable participation of parentally-placed private school children; and

(2) An accurate count of those children.

(c) Activities. In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.

(d) Cost. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under §300.133.

(e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with §300.301.

(f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

11.10. C Provision of services for parentally-placed private school children with disabilities--basic requirement.

(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children 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 determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.

(b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

(c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

(1) The number of children evaluated;

(2) The number of children determined to be children with disabilities; and

(3) The number of children served.

11.10. D Expenditures.

(a) Formula. To meet the requirement of §300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

(b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B for an example of how proportionate share is calculated).

(c) Annual count of the number of parentally-placed private school children with disabilities.

(1) Each LEA must--

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with §300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

(d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

11.10. E Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children

with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including--

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

11.10. F Written affirmation.

(a) When timely and meaningful consultation, as required by §300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

(b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

11.10. G Compliance.

(a) General. A private school official has the right to submit a complaint to the SEA that the LEA--

(1) Did not engage in consultation that was meaningful and timely; or

(2) Did not give due consideration to the views of the private school official.

(b) Procedure.

(1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and

(2) The LEA must forward the appropriate documentation to the SEA.

(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and

(ii) The SEA must forward the appropriate documentation to the Secretary.

11.10. H Equitable services determined.

(a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(b) Decisions.

(1) Decisions about the services that will be provided to parentally- placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(c).

(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

(c) Services plan for each child served under §§300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must--

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

11.10. I Equitable services provided.

(a) General.

(1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally- placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(b) Services provided in accordance with a services plan. (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate--

(i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.

(c) Provision of equitable services.

(1) The provision of services pursuant to this section and §§300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally- placed private school children with disabilities, including materials and equipment, must be secular, neutral, and non-ideological.

11.10. J Location of services and transportation.

(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

(b) Transportation.

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.

11.10. K Due process complaints and State complaints.

(a) Due process not applicable, except for child find. (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) Child find complaints--to be filed with the LEA in which the private school is located.

(1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) State complaints.

(1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153.

(2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b).

11.10. L Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting--

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

11.10.M Use of personnel.

(a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities--

(1) To the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

(b) Use of private school personnel. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.130 through 300.144 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.

11.10. Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

(a) The classes are at the same site; and

(b) The classes include children enrolled in public schools and children enrolled in private schools.

11.10. P Property, equipment, and supplies.

(a) A public agency must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

(c) The public agency must ensure that the equipment and supplies placed in a private school--

(1) Are used only for Part B purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) 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.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

11.11 CHILDREN WITH DISABILITIES IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

11.11 A Applicability of §§300.146 through 300.147.

Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

11.12 CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS WHEN FAPE IS AT ISSUE

General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with §§300.131 through 300.144.

(a) Disagreements about FAPE. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§300.504 through 300.520.

(b) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.

(d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied--

(1)) If--

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;

(2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in §300.503(a) (1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement--

(1) Must not be reduced or denied for failure to provide the notice if--

(i) The school prevented the parents from providing the notice;

(ii)The parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph (d)(1) of this section; or

(iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and

(2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if--

(i) The parents are not literate or cannot write in English; or

(ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child.

11.13 CHILD COUNT REQUIREMENTS

A. The LEA shall consult with representatives of private school children to decide how to conduct the annual count of the number of private school children with disabilities:

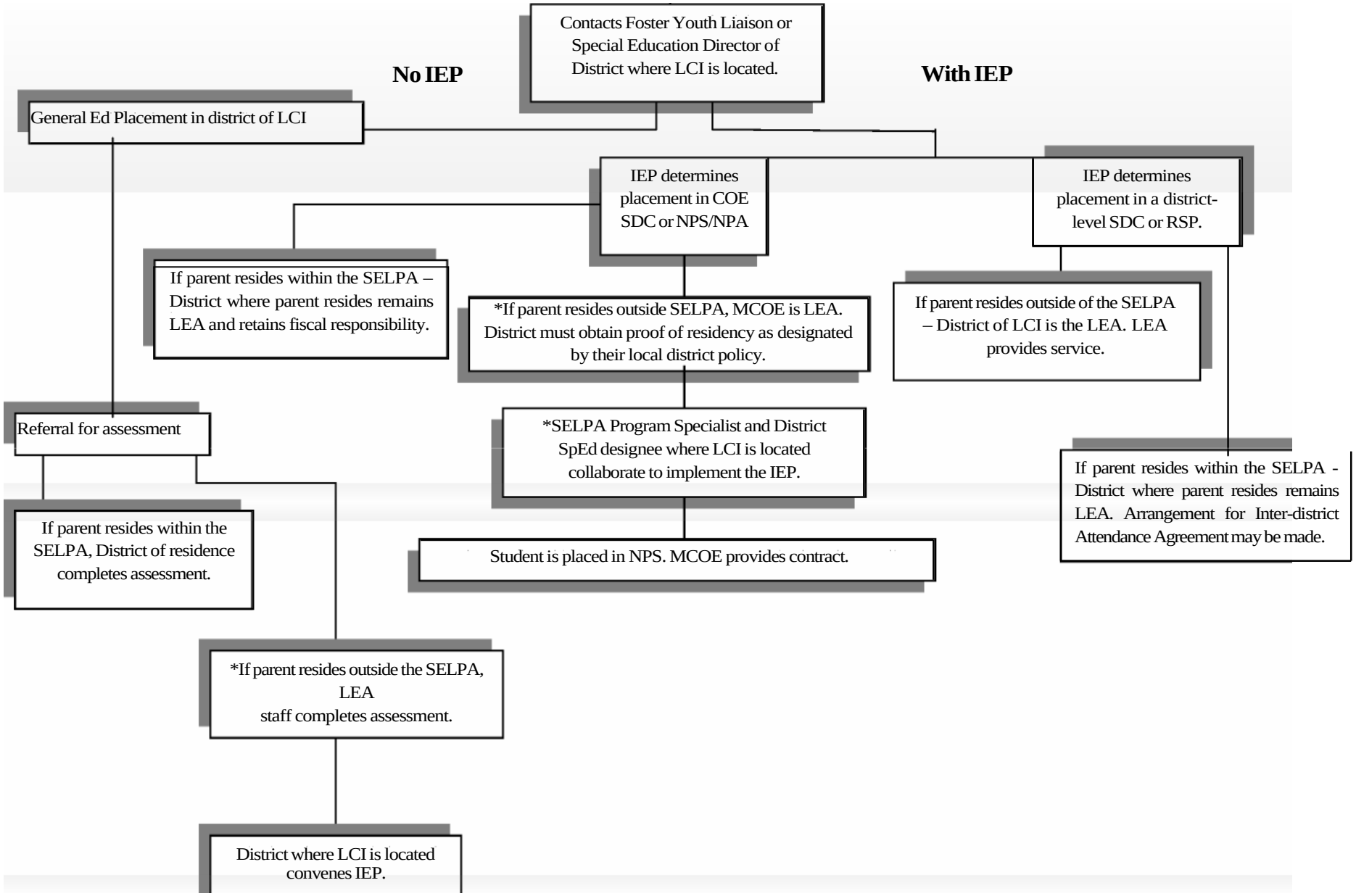
1. The child count shall be conducted for attendance on December 1 of the prior year. The child count shall be conducted by mail and follow-up phone or in-person contact as needed.

2. The child count shall be used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the fiscal year following the date on which the child count is conducted.

B. Following the consultation, the LEA shall conduct an annual count of the number of private school children with disabilities

EXHIBIT A

FOSTER YOUTH/LCI/NPS FLOWCHART



CHAPTER 12 – SURROGATE PARENT PROCEDURES

12.1 DETERMINING ELIGIBILITY OF STUDENTS

Prior to assigning a surrogate parent to represent a student, the placing agency representative must complete an MP026 form, which shall be reviewed, and the eligibility of the student shall be determined.

If a student is adjudicated a dependent or ward of the court pursuant to Section 300,601 or 602 of the Welfare and Institutions Code, the documentation provided by the court shall be deemed as documentation that the rights of the student's parent(s) to make educational decisions have been removed or limited by the court.

If the rights of the student's parent(s) and/or legal guardian to represent the child for educational purposes have been specifically removed or limited by the court, the student shall be assigned a surrogate parent.

If one parent or legal guardian retains the right to make educational decisions on the pupil's behalf, and that parent or legal guardian is willing to represent the student, no surrogate parent will be assigned.

The reasonable search for the student's parent(s)/legal guardian must be documented. The search shall consist of a minimum of three search attempts, conducted over a three-week period, utilizing two or more types of contact attempts (certified letter, telephone call, home visit, etc.)

If no parent has been located, the student shall be assigned a surrogate parent.

If a parent is located, but refuses to exercise his or her rights to represent the student, that fact shall be documented and a referral shall be made to the court.

If a student has reached the age of majority and has been conserved by the court, that fact shall be documented. The student shall be assigned a surrogate parent. In some instances, the conservator will be assigned as the surrogate parent, if he or she has no conflict of interest.

If it is suspected that the parents are minors, the age of the parent(s) shall be documented.

If a student is an emancipated minor, that fact shall be documented. Emancipated minors shall not be assigned a surrogate parent.

If a student is a married minor, that fact shall be documented. Married minors shall not be assigned a surrogate parent.

12.2 RECRUITMENT OF VOLUNTEERS

The SELPA Director and district directors will work with community agencies and organizations, both public and private, to secure applicants for the position of surrogate parent volunteer.

The SELPA Director/designee will coordinate activities of the SELPA and LEAs in seeking volunteers.

Each volunteer interested in the surrogate parent position must complete a surrogate parent application form.

12.3 SCREENING OF APPLICANTS

The following areas must be addressed by the SELPA Director/designee in the screening process for the appointment of surrogate parents.

(1) The volunteer must have an active interest in the students to be served.

(2) The volunteer must have a willingness to learn the requirements of special education.

(3) The volunteer must have no criminal background (arrest/conviction) that includes a misdemeanor involving abuse or neglect or others, or contributing to the delinquency of minors, or any felony conviction. Misdemeanor convictions within the past five years will be considered on a case by case basis.

(4) The volunteer must have a valid *California Drivers License* and provide proof of insurance or demonstrate the ability to fulfill all duties of a surrogate parent without needing to drive.

(5) The volunteer must be willing to be fingerprinted, if deemed necessary by the SELPA Director or district director.

(6) The volunteer must not have a conflict of interest, including financial, with the specific student represented, or other interests, including institutional or other biases that might restrict or interfere with his or her ability to advocate for all the services required to ensure a free appropriate public education for the assigned individual with exceptional needs.

(7) The volunteer must not be an employee of an agency that has a direct relationship to the student, e.g., school employees, probation officers, social workers, group home providers, or others who may have a conflict of interest.

(8) The volunteer should display sensitivity to the cultural, socio- economic and individual needs of the student served.

12.4 APPOINTMENT OF SURROGATE PARENT

(1) The SELPA or the LEA may appoint a surrogate parent volunteer. The surrogate parent volunteer shall be assigned to one or more students, using the following criteria:

- Cultural and socio-economic sensitivity.

- Location, based on reasonable travel time for the surrogate parent.
- Ability to understand and relate to the disability and needs of the student.
- The interest of the surrogate parent volunteer.

(2) Upon appointment, the following will be provided to the surrogate parent:

- An identification card.
- The SELPA Director or designee will ensure that an initial meeting with the LEA Special Education Director, surrogate parent and student is arranged.
- The LEA Special Education Director will ensure that the surrogate parent meets with the teacher(s) and personnel providing related services for the assigned student.
- The LEA Special Education Director will ensure that the surrogate parent meets with the foster home parent, group home provider, or the person with whom the student resides.
- The LEA Special Education Director will ensure that the surrogate parent will receive training, from the LEA case manager or other designated staff, in the disability and educational needs of the student assigned to the surrogate parent.

12.5 TRAINING

Prior to assigning a surrogate parent to represent a student, the SELPA or district director/designee will arrange for training for the surrogate parent. Training shall include, but not be limited to, the following topics:

1. Special Education and Related services.

2. Special Education programs available within Mendocino County as well as other educational placement options.

3. Policies of the Mendocino County SELPA Governing Board.

4. Federal and State laws and regulations regarding Special Education.

5. Parent and student rights under federal and State Special Education laws and regulations.

6. Surrogate parent responsibilities, including participating in Individualized Education Program (IEP) meetings and suspension/expulsion proceedings for the assigned student.

7. Conflicts of Interest.

8. Visiting with the student's classroom(s) and consulting with the student's teacher(s) and personnel providing related services.

9. Visiting with the student outside the educational environment.

10. Consulting with the student's foster parent(s), group home provider/staff members, or the person(s) with whom the student resides.

11. Ethical concerns, including the responsibility to hold all information regarding the assigned student in confidence.

12. The Community Advisory Committee and parent support groups.

13. Child and adult abuse reporting laws.

Training Sessions

Training sessions shall be provided at convenient locations, and shall be scheduled on days and at times that are suited to meet the needs of the surrogate parent volunteers.

The LEA Director shall arrange for records to be kept of the dates and types of training received by each prospective surrogate parent.

12.6 SURROGATE PARENT CASELOAD

The SELPA Director or District Director will determine the student caseload for the surrogate parent. The criteria utilized will include, but not be limited to: demonstrated ability of the surrogate parent, location of students requiring surrogate parents, and the surrogate parent's interest in the particular students to be assigned.

12.7 SURROGATE PARENT COMPENSATION

Upon prior approval of the LEA Director, the LEA will reimburse the surrogate parent for reasonable costs incurred in their duties as follows:

- Mileage shall be reimbursed at a rate established by the district in which the surrogate parent is volunteering.

- Phone calls required in the performance of surrogate parent duties, not to exceed $5.00 per month.

- When necessary and appropriate, stipends may be paid to surrogate parents according to a written agreement by the SELPA or district.

- The surrogate parent must complete the appropriate reimbursement claim forms for reimbursement.

12.8 ACCESS TO THE STUDENT

The surrogate parent must meet with the student under the supervision of the student's group home provider, foster parent, person with whom the student resides, placing agency representative, or designated school staff. Exceptions to this procedure are made by the SELPA Director/district director/designee.

School personnel shall make every reasonable effort to ensure that the surrogate parent has access to the student as it relates to the student's educational needs.

12.9 ACCESS TO STUDENT RECORDS

The surrogate parent retains the same rights as a parent/legal guardian to access student records. He or she must request copies of school records and other records in the same manner that is required by the parent/legal guardian.

Due to the continual need for confidentiality, when a surrogate parent discontinues representing a specific student, he or she must return to the district all copies of the student's records in his or her possession.

12.10 USE OF INTERIM SURROGATE PARENTS

When any of the following conditions prevail, the Director of Special Education of the LEA in which the student is educated, shall notify the SELPA Director, within two working days, of the need for the assignment of an interim surrogate parent:

- If no parent is immediately available, and the student has been referred for an assessment for possible placement in a Special Education Program; or

- The student transfers into another district or county program in the Mendocino County SELPA and is provided an interim placement in a Special Education Program.

The LEA Director shall assign a surrogate parent, within five working days, depending upon the availability of surrogate parents.

The LEA Director shall terminate the services of the interim surrogate parent when/if any of the following exist:

- The student, after assessment, is found to be ineligible for Special Education and/or related services. The Director of Special Education of the LEA in which the student is educated shall notify the SELPA Director, within five working days that the student was determined to be ineligible for special education.
- The student is determined to be ineligible for the services of a surrogate parent.
- The surrogate parent from the previous SELPA qualified to be a surrogate parent in the Mendocino County SELPA, and is willing and available to provide the service for the student.
- A permanent surrogate parent is appointed for the student.

12.11 TERMINATION OF SURROGATE PARENT APPOINTMENT

Only the SELPA Director/LEA Director may terminate a surrogate parent's appointment. The SELPA Director shall terminate the appointment of a surrogate parent, when the Director of Special Education of the LEA in which the student is educated notifies the SELPA Director of any of the following conditions:

1. Notice is received from the court that the student is no longer a dependent or ward of the court, under Section 300.601 or 602 of the Welfare and Institutions Code. A copy of said notice should be forwarded to the SELPA Director within two working days of receipt.

2. Notice is received from the court that the right of the parent or legal guardian to make educational decisions for the student, who is a ward, has been reinstated. A copy of said notice should be forwarded to the SELPA Director within two working days of receipt.

3. The student reaches the age of majority, as documented by the school district or County Office of Education records.

4. The student exits from the Special Education program, as documented by an IEP team.

5. The parent or guardian appears and assumes the responsibility for making educational decisions for the student.

6. The surrogate parent is alleged to have committed a misdemeanor involving the abuse or neglect of others or contributing to the delinquency of minors, or any felony.

7. A surrogate parent is found to have a conflict of interest:

If the SELPA Director determines that a conflict of interest exists, it shall be documented and the LEA Director of Special Education shall be notified of same within two working days.

The surrogate parent takes action, which threatens the safety or well being of the assigned student.

The LEA Director of Special Education shall investigate the allegations of such action and report the results of said investigation to the SELPA Director as soon as possible, but no later than 30 days following the original report of the allegations.

The SELPA Director shall determine whether the surrogate parent's appointment should be terminated, based on the results of the investigation.

When the SELPA Director receives information indicating the possible need to terminate a surrogate parent, the SELPA Director shall consider the validity of the information and make a decision to terminate or not terminate within five working days.

If the SELPA Director determines that the surrogate parent should be terminated, the SELPA Director shall notify the surrogate parent within five working days of such decision.

Notice of termination shall be by documented phone call or certified mail, with return receipt requested.

At the discretion of the SELPA Director, the terminated surrogate parent may be granted the right to discuss the termination with the SELPA Director with the possibility of eventual reinstatement.

A terminated surrogate parent may protest the termination in writing to the SELPA Director, whose decision regarding the appeal shall be final.

A student, whose surrogate parent has been terminated, shall be so notified by the LEA Director of Special Education in which the student is educated.

A student, who remains eligible for the services of a surrogate parent, shall be assigned an interim or new surrogate parent within two working days or as soon as possible.

12.12 CONFLICT RESOLUTIONS AND APPEALS

Conflicts must be brought to the attention of the SELPA Director, who will work with all parties involved, to bring resolution to the conflict. The SELPA Director, or his or her designee, will have the final authority in all appeals and conflicts.

12.13 HOLD HARMLESS

The SELPA and the surrogate parent shall enter into a signed agreement of that with a hold harmless clause.

APPENDIX A

APPOINTMENT OF SURROGATE PARENT

I appoint_____to act as surrogate parent in matters involving the education of_____. This representative shall have parental authority in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the Individualized Family Service Plan (IFSP) or the Individualized Education Plan (IEP) including non-emergency medical services, mental health services and occupational or physical therapy services as relating to the IFSP/IEP, and in other matters relating to the provision of a free appropriate education for the individual.

This appointment shall remain in effect until any of the following occur.

1. The pupil's parent is located and/or appoints an educational representative.
2. The surrogate parent is unwilling or unable to carry out his/her responsibilities to the best interest of the child.
3. The surrogate parent is in a position with a conflict of interest in the above matter.

_____

LEA Special Education Administrator Date

_____

Telephone:

ACCEPTANCE OF APPOINTMENT

I,_____, hereby accept the above appointment. At such time as I am unable or unwilling to continue this appointment, I will notify the LEA Special Education Administrator designated above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

I acknowledge that_____has provided information/training regarding the laws applicable to surrogate parent responsibilities and the continuum of education program placements and opportunities available for individuals with disabilities.

I agree to maintain all student records and information in a confidential manner. Upon the termination of this agreement, I will return all such records to _____

_____

Surrogate Parent Date

_____

Address

_____

City ZIP

Telephone:

CHAPTER 13 – LOW INCIDENCE GUIDELINES

LOW INCIDENCE POLICY

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 neighboring SELPAs. To meet this responsibility, a Low Incidence Committee has been established which is comprised of educators knowledgeable about low incidence disabilities. The Mendocino County SELPA Low Incidence Committee has established procedures and guidelines for purchases through the Low Incidence fund.

The Low Incidence Committee may include:

- Specialist for the visually impaired
- Specialist for the orthopedically impaired
- Specialist for the Hard of Hearing or Deaf
- Speech/Language Pathologist
- Audiologist
- Teacher or Specialist knowledgeable in assistive technology
- SELPA Administrator
- SELPA Program Specialist

ELIGIBILITY

Funds may be used for all pupils with the Low Incidence disabilities as defined in law, even though they may have been counted in another category in the pupil count. For example, a pupil who is deaf and also has mental retardation would still be eligible even if the pupil was reported in the latter category or as having multiple disabilities. Also, 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.

REQUESTING EQUIPMENT/MATERIALS THROUGH LOW INCIDENCE FUNDS

These guidelines were developed for those persons and agencies serving pupils with severe orthopedic impairments and who require specialized services to benefit from education. These students have the potential to pursue the district's general, parallel, or adapted course of study. Persons who are planning educational programs for a student with more than one impairment should combine the concepts in these guidelines with those from the guidelines that address other impairments.

A. LIF Parameters

1. Prior to requesting purchase of new equipment the district/program should check other sources such as the

Clearinghouse for Specialized Media and Technology for any availability.

2. Low Incidence Funds shall not be used for purchase of non-adapted computers and toys.

3. Requests for individual items that are under $200.00 should not be submitted for low incidence funding and are district or program responsibility unless the items comprise parts of a single piece of equipment from the same vendor for an individual student that totals at or above $200.

4. Requests that are above $5,000 – SELPA LI funds will cover up to $5,000 and the district of residence will be responsible for the amount over $5,000. Because money from the LIF was used to pay for part of the equipment, it is the property of the state, not the school district.

5. Equipment purchased with LIF funds is the property of the State of California and is managed by the Mendocino 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 pupil shall prepare a written report, or reports as appropriate, of the results of each assessment. The report shall include, but not be limited to 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.
- Justification statement that is related to the student's unique educational needs as identified in the assessment information. (See IEP Team's Rationale on Request Form)
- Assessment, goals and objectives that are correlated to the justification statement of need.
- Present level that reflects assessment information and need for support.
- Identification of personnel who will provide support to student and will monitor and inventory adapted equipment and FM System (List name & position).

3. Complete the "Low Incidence 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.smcoe.k1 2.ca.us). Revisions/Updates are posted as necessary. The District or COE Director must sign 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 supportive Documentation pertinent to the low incidence funds request (e.g. reports from OT, PT, audiologist, VI teacher, speech pathologist)

6. Send the Request Packet to the District or County Director for Approval. After approval, the request packet will be sent to the SELPA Program Coordinator. 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. Objectives 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.
4. The need for specific equipment must be addressed by the current appropriate specialist (e.g. PT, Audiologist, Speech/Language Specialist), by way of assessment and report, and included in the current IEP if a goal addressing that need is a part of the IEP. If a goal is written into an IEP, and a report/assessment is done after the fact by a specialist, the request for LIF funding may be denied.

D. Low Incidence Committee Approval Process

1. Dates of Review: The Low Incidence Committee will meet on an as needed basis to review the Low Incidence requests.

2. Purchasing the LI Item: Once approval is granted, the SELPA will process the purchase order. Inventory tag must be attached to equipment by designated district/county personnel. Identify equipment as LIF with permanent marker. 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 away. Providing these resources is the responsibility of the SELPA where the student now resides. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs 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 in college, he should contact the Department of Rehabilitation who has the legal responsibility to assist in training adults with disabilities."

F. Equipment

1. Lost or stolen equipment will not be replaced using low incidence funds. LEA is responsible for replacement of equipment.

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 Program Coordinator. 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 system – SELPA Manager.

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.

Mendocino 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. Equipment Covered:
Equipment must meet the unique needs of the student and be adaptive and specialized

C. Equipment not covered:
Lost or stolen equipment will not be replaced, but will be considered for reimbursement if there are funds at the end of the year.

2. LIF Service 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 services

B. Services Covered:

- Repair of Audiological equipment
- Reimbursement for Repair of previously purchased LIF Equipment (with the exception of Audiological equipment). Districts are required to repair LIF equipment and then seek reimbursement from LIF Service Fund.
- Direct services to the LIF student such as interpreters, note takers, readers, transcribers, and others in accordance with Ed.Code Section 56026.5 will be considered at the end of the year if money is available
- Warranty Renewal
- Replacement of batteries on previously purchased LIF equipment

C. Services not covered:

- Assessments
- Assistive Technology services

CHAPTER 14.—EXTENDED SCHOOL YEAR GUIDELINES

EXTENDED SCHOOL YEAR

When considering ESY for any student, the IEP team must consider data collected during the previous year(s) to determine the student's need based on regression and recoupment. After a three month summer break it is reasonable to expect that, after eight weeks of instruction and re-teaching, the student should have regained or recouped last Spring's performance levels. It is common that the re-teaching time be equal to the length of the break. If data shows that this is not the case, a regression/recoupment problem may exist.

Extended School Year (ESY) services are special education and related services that are required by an individual student beyond the 180-day school term/year. The services provided must be consistent with the student's individual education program so that the student will receive a free appropriate public education (FAPE). "Extended School" year services shall be provided for each individual with exceptional needs, who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for prolonged periods, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factor may not be used to deny an individual an extended year program if the individualized education program (IEP) team determines the need for such a program and included extended year in the individual program pursuant to subsection (f)." (CCR-Title 5, Division 1, Chapter 3, section 3043).

The key issues for **ESY** focus on regression and recoupment. Although there are no state or federal regulations addressing when a child requires these services, there have been court cases that provide districts with guidance. It is the issues of regression and recoupment that provide a framework upon which to base discussion on the needs of the student.

From a Sixth Circuit court decision {Cordrey v. Euckert [17EHLR 104}, they noted that **"the school district has no purely custodial duty to provide for handicapped children while similar provision is not made for others. Therefore, begin with the proposition that providing an extended school year is the exception and not the rule..."** Therefore, districts will consider all appropriate factors in determining whether the benefits a student has been credited with during the regular school year would be at significant risk for regression if not provided with **ESY.**

If the student does not require **ESY,** the student **could** be considered for regular summer school services offered within the school district.

WHEN SHOULD ESY BE RECOMMENDED?

Since the need for **ESY** is based on an unacceptable regression or recoupment as demonstrated by the student, there needs to be some discussion on what might be acceptable for most students. There was a study completed by Tilley Cox and Staybrook (1986) that found that most students experience some

regression during summer break. Using standardized test, they found the rate of regression for regular education students was 4%. They also found students with mild handicaps, hearing impairments and serious behavior disorders regressed at approximately the same rate as their regular education peers. They found that for students with moderate to severe handicaps, there was an increased rate of regression and a slower rate of recoupment. According to the study, the areas that were most impacted for those students were language, gross motor, fine motor and self-help skills. Therefore, it is reasonable for those students with moderate to severe challenges to be considered for an **ESY** program that would concentrate on skill regression and recovery.

When considering **ESY** for any student, the IEP must consider data collected during the previous year(s) to determine the student's need based on regression and recoupment. This decision should be based on a multi-faceted measurement, although there may be rare instances where the IEP team might consider **ESY** services based on a single criterion. In either case, the IEP team must decide a child's eligibility for **ESY** services based on data collected that reflects his/her regression/recoupment capacity.

ESY services are to be considered for students between the ages of three to twenty one or students who have not graduated from high school with a diploma.

Districts that have year round calendars require a timeline for consideration of **ESY** or a comparable program at the end of the student's track year. The timeline for year round would be to call a meeting three months prior to the end of the student's year. **ESY** services would still be provided if the team determines the services are warranted. The district would have to determine the number of days the student would require. Each district would then identify the support provided during intercession. It is important to remember that the number of days recommended for **ESY** is based on student data collected to support student need (CCR 3043, d(1),(1)).

HOW SHOULD ESY ELIGIBILITY BE DETERMINED?

The child's individual education program (IEP) plan should be the foundation for determining the need for **ESY**. This can be achieved through ongoing assessment/review of the goals/objectives. The IEP team meets to review the student's progress, considering a variety of measurements to provide a baseline that documents the regression and recoupment rate. Pinkerton (1990) identified four points at which data should be collected regarding student progress: 1) at the end of the school year, 2) at the end of the summer program (if applicable), 3) at the beginning of the next school year, and 4) at the end of the current school year. The assessment must be based on the IEP objectives so that progress can be matched directly to each benchmark outlined and the data can be compared to support evaluation of service effectiveness.

There have been several recent court cases, which help clarify issues of regression/recoupment. In **SS, JD, SS v. Henricoe County School Board (38 IDELR 261, 326 F.3d 560 [4th Cir. 2003])**, the Hearing Officer found that **ESY** services "were not for the purpose of achieving goals not met during the school year." In **MM v. School District of Greenville County, (37 IDELR 183, 303 F.3d 523 [4th Cir. 2002])**, the court ruled the "**ESY** services are only necessary to FAPE when the benefits accrued by

a disabled child during a regular school year will be significantly jeopardized if he is not provided with an educational program during the summer months."

Prior access to, or lack of **ESY**, is not a factor in determining need. Each student should be considered for services based on, but not limited to, the following factors:

> Degree of impairment, regression rate for students, rate of progress, behavioral and physical problems, curricular areas which would be adversely impacted, and vocational needs

The severity of the handicap is a primary consideration in determining eligibility for **ESY**. The IEP team should consider the following when discussing **ESY** eligibility:

- Student's age
- Severity of the disability
- Presence of medically diagnosed health impairments
- Attainment of self-sufficiency

Younger students with medically diagnosed health impairments are more likely to be referred for **ESY** due to degenerative diseases and/or high absenteeism as a result of the health impairment. Additionally, the ability to maintain self-sufficiency skills for our more mentally and physically challenged students will continue to be a key issue in **ESY** eligibility.

Once services are determined as necessary based on data collected and regression/recoupment rate, the IEP team must include a statement that included a description of the services required by the child's IEP in order to receive FAPE.

LEAs are not required to create programs in order to provide **ESY** services. An example would be a student who requires an integrated setting. If the LEA does not provide summer services for non-disabled students, the LEA is not required to create a new program **(Tuscaloosa County Board of Education, 35 IDELER 172 [SEA AL 2001]).**

WHAT EXTENDED SCHOOL YEAR SERVICES SHOULD BE INCLUED IN A CHILD'S IEP?

The extended school services should concentrate on the areas most impacted by regression and inadequate recoupment. These services may look markedly different in **ESY** as determined by the IEP team. **(The decision is not driven by the setting in which the student is educated during the comprehensive school year).** This may also be true for the amount the duration of services as based on the individual child's needs. Related services must also be considered as they relate to the child's benefiting from special education.

Several court cases have referred to the "availability of alternative resources" when considering **ESY** services. The LEA could consider community programs that are available to students. If there are programs which meet the needs of the student, there must be a discussion regarding whether or not **ESY** would then be required for FAPE.

The LEA must be cautious when identifying services provided by community agencies such as a Parks and Recreation program. These outside agencies have no "requirement to maintain the student in their program".

WHAT IS THE DIFFERENCE BETWEEN ESY AND SUMMER SCHOOL?

Summer school classes are not special education, and therefore are not required. Summer school classes are not based upon a child's individual needs and do not require an IEP. Summer school classes are not required in order for a child to receive FAPE which is in contrast with those services provided in **ESY**. In addition, a school district can choose not to provide summer school.

WHAT EXTENDED SCHOOL YEAR IS AND IS NOT

Extended School Year (ESY) is:

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

Extended School Year (ESY) is not:

- It is not a mandated 12-month service for all students with disabilities
- It is not required to function as a respite care service
- It is not funded by General Fund
- It is not required or intended to maximize educational opportunities for any student with disabilities

- It is not necessary to continue instruction on all the previous year's IEP goals during the ESY period
- It is not compulsory. Participation in the program is discretionary with the parents, who may choose to refuse the ESY service. There may be personal and family concerns that take precedence over ESY
- It is not required solely when a child fails to achieve IEP goals and objectives during the school year
- It should not be considered in order to help students with disabilities advance in relation to their peers
- It is not for those students who exhibit random regression solely related to transitional life situation or medical problems which result in degeneration
- It is not subject to the same LRE environment considerations as during the regular school year as the same LRE options are not available. Additionally, LRE for some students may be home with family members
- It is not a summer recreation program for students with disabilities
- It is not to provide a child with education beyond that which is prescribed his/her IEP goals and objectives

Adapted from www.slc.sevier.org 2003

FEDERAL REGULATIONS

Individuals with Disabilities Education Act (34 CFR Part 300 §300.309. Extended school year services.

(a) General.

(1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE.

(2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not –
  (i) Limit extended school year services to particular categories of disability; Or
  (ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition.

As used in this section, the term extended school year services means special education and related services that –

(1) Are provided to a child with a disability –

(i) Beyond the normal school year of the public agency
(ii) In accordance with the child's IEP; and
(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

CALIFORNIA CODE OF REGULATIONS (CCR) 3043

§3043 Extended School Year

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

(a) Extended year special education and related services shall be provided by a school district, special education local plan area, or county office offering programs during the regular academic year.

(b) Individuals with exceptional needs who may require an extended school year are those who:

(1) Are placed in special classes or centers; or
(2) Are individuals with exceptional needs whose individualized education programs specify an extended year program as determined by the Individualized Education Program Team.

(c) The term "extended year" as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term "academic year" as used in this section means that portion of the school year during which the regular day school is maintained, which period must include less than the number of days required to entitle the district, special education services region, or county office to apportionments of state funds.

(d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays. For reimbursement purposes:

(1) A maximum of 55 instructional days excluding holidays shall be allowed for individuals in special classes or centers for the severely handicapped; and

(2) A maximum of 30 instructional days excluding holidays shall be allowed for all other eligible pupils needing extended year.

(e) A local governing board may increase the number of instructional days the extended year period, but shall not claim revenue for average daily attendance generated beyond the maximum instructional days allowed in subsection (d)(1) and (2).

(f) An extended year program when needed, as determined by the Individualized Education Program team, shall be included in the pupil's individualized education program.

(g) In order to qualify for average daily attendance revenue for extended year pupils, all of the following conditions must be met:

(1) Extended year special education shall be the same length of time as the school day for pupils of the same age level attending summer school in the district in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the individualized education program to meet a pupil" needs.

(2) The special education and related services offered during the extended year period are comparable in standards, scope and quality to the special education program offered during the regular academic year.

(h) If during the regular academic year an individual's Individualized Education Program specifies integration in the regular classroom, a public education agency is not required to meet that component of the individualized program if no regular summer school programs are being offered by that agency.

(i) This section shall not apply to schools which are operating a continuous school program pursuant to Chapter 5 (commencing with Section 37600) of Part 22, Division 3, Title 2, of the Education Code.

[Authority cited: Section 56 100(a) and (j), Education Code. Reference: Sections 37600, 41976.5 and 56345, Education Code; 34 C.F.R. 300.346]

EXTENDED SCHOOL YEAR (ESY) TIMELINE

First 8 weeks of school:

- Collect data and re-teach
- Compare to Spring data to determine if the student recouped his/her skills from previous year (This data should be the basis of the ESY eligibility discussion at the annual IEP)
- Instruction and ongoing data collection
- As soon as a student is found eligible for ESY at the annual review IEP, document the reasons why ESY is recommended on the summary page or on an addendum IEP
- Include data supporting the recommendation for ESY
- Continue instruction and document progress on progress reports

Following the first and second grading period

*For new students or any student for whom you were unable to gather regression/recoupment data during the first 8 weeks of school, review data before and after any break from school (e.g. Thanksgiving, Winter or Spring break) to determine if student may have a significant regression/recoupment problem

- Use data collected as the basis for ESY eligibility discussion at the annual review IEP or addendum meeting
- Re-teaching time should equal the length of the break (1 week break = 1 week re-teaching and then retest)
- As soon as students are found eligible for ESY, the reasons for eligibility are documented on the IEP summary sheet or addendum
- Continue instruction and document progress on progress report

Two to three months prior to the end of the school year

- Notify district administrator for students eligible for ESY
- Be sure to include documentation to support decision
- Continue to teach and gather data for last quarter/trimester of the school year
- If the data indicates the student has a need for ESY, convene an IEP team meeting
- If the team determines services are warranted, notify the district administrator as explained above
- Each District submits an Extended Session Budget Estimate to the SELPA by the end of May

When should ESY Data Collection occur?

Recommended times for data collection:

- At the end of regular school year
- At the end of summer program
- At the beginning of subsequent school year
- Before and after school vacations;
- Ongoing collection of information throughout the school year
- Before/after student has been out of school for other reasons

Adapted from ESY Timeline, www.kyrene.org/resource/esy

CHAPTER 15 – SPECIAL EDUCATION TRANSPORTATION GUIDELINES

The following guidelines are derived from the Special Education Transportation Guidelines developed by California Department of Education in response to EC Section 41851.2 which required the state Superintendent of Public Instruction (SSPI) to develop special education transportation guidelines for use by individualized education program (IEP) teams that clarify when special education transportation services are required. In addition, appendices have been added to provide samples for local education agencies (LEAs) developing procedures.

The guidelines should be utilized to plan and implement transportation services to pupils that require this service to benefit from special education instruction and/or related services. They are applicable to all individuals with exceptional needs enrolled in school programs birth to age 22.

INTRODUCTION

EC section 56040 states: "Every individual with exceptional needs, who is eligible to receive educational instruction, related services or both under this part shall receive such educational instruction, services, or both, at no cost to his or her parents or, as appropriate, to him or her." Special education transportation is defined as a related service in the federal regulation (34 CFR. Section 300.24). Transportation is required to be provided if it is necessary for the student to benefit from special education instruction. In addition, as required for any special education program, the service must be provided to meet the criteria for a free, appropriate public education (FAPE).

EC Section 56441.14 states: "Criteria and options for meeting the special education transportation needs of individuals with exceptional needs between the ages of three and five, inclusive, shall be included in the local transportation policy."

EC Section 41850(d) defines "special education transportation" as: "The transportation of severely disabled special day class pupils, and orthopedically impaired pupils who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program".

EC Section 41850(b) "home-to-school transportation services" includes all of the following:

- The transportation of pupils between their homes and the regular full-time day school they attend, as provided by a school district or county superintendent of schools.
- The payment of moneys by a school district or county superintendent of schools to parents or guardians of pupils made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend
- Providing board and lodging to pupils by a school district or county superintendent of schools made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend

- The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes they attend, as provided by a regional occupational center or program
- The transportation of individuals with exceptional needs as specified in their individualized education programs, who do not receive special education transportation as defined in subdivision (d), stated above

Examples that IEP teams may consider under EC 41850(b) include:

- Pupils with severe disabilities who are not placed in special day classes or otherwise enrolled in programs serving pupils with profound disabilities
- Pupils with orthopedic disabilities who do not use wheelchairs or require lifts
- Students beginning special education who did not receive transportation under an IEP in the prior fiscal year
- Pupils with other health impairment, learning disabilities or other cognitive disabilities
- Pupils who live beyond reasonable distance to their school and would not, without transportation, have access to appropriate special education instruction and related services at no cost

RECOMMENDATIONS AND CONSIDERATIONS BY RESPONSIBLE PARTY

It is recommended that all LEAs and County Offices of Education that provide any special education transportation take the following issues and concepts under consideration to assist with preparation for organizing a transportation system and providing services that will allow for students' placement in the least restrictive environment while also allowing for the most cost-effective special education transportation system.

TRANSPORTATION POLICIES

Each LEA providing special education is required to adopt policies for the program and services it operates, consistent with EC Section 56195.8(b)(5) which states:

> "Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education pupils. The policy shall include procedures to ensure compatibility between mobile seating devices, when used, and the securement systems required by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that school bus drivers are trained in the proper installation of mobile seating devices in the securement systems".

It is recommended these policies focus upon pupil needs as the primary consideration for determining transportation services and that these policies also address the needs of pupils who may be eligible for transportation services as required by the Rehabilitation Act of 1973, Section 504. A sample Board Policy and Administrative Regulation are included in the Appendices.

DELIVERY OF SERVICES

The person responsible for implementation of the IEPs should be knowledgeable of transportation policies and/or procedures that address the responsibilities of the IEP team in regard to transportation and the delivery of services to eligible students in their least restrictive environment.

This includes consideration of services that are provided in the setting appropriate to the needs of the student at the pupil's neighborhood school, or within the district or SELPA. Consideration should be taken regarding the effect that the location of the placement will have on the length of time that a student has to and from school each day. Placements should not be made solely on a "space available" basis. If a student is receiving services outside of his/her residence area, the placement should be reviewed at least annually in order to determine if a placement closer to the student's residence would be appropriate.

LOCATION OF PROGRAMS/PLACEMENT OF PUPILS

The efficiency of a transportation system for special education is partially dependent on the location of the program sites and the placements of students. A demographic and geographic review that analyzes the present locations of programs, program needs, and populations served should take place. Program service regions with clearly defined service areas can then be established, using residence areas of the neighborhood schools. While this also involves the issue of facilities, a mission statement and policies developed by the agency may promote the comprehensive commitment to all pupils and the acceptance of pupils with exceptional needs in a broad variety of settings.

ADDITIONAL POLICY CONSIDERATIONS

Other subjects that need policy and procedures directives may include:

- Control of pupil's medicine transported between home and school on a vehicle
- Students suspension
- Physical intervention and management
- Authority to use special harnesses, vest, and belts
- Early closing of schools due to inclement weather or other emergencies
- Authority to operate special equipment
- When no adult is home to receive pupils
- When and how to involve community emergency medical and or law enforcement personnel
- Use of mobility aides
- Control and management of confidential information
- Use of bus aides
- Student Emergency Form (Sample included in Appendices)
- Other

COORDINATION OF CALENDARS AND SCHEDULES

Coordination of student attendance calendars at all school sites that provide special education services is necessary to fully utilize transportation services and to minimize the number of required days of transportation service.

The standardization of calendars should include the following coordination:

- Starting and ending dates of school years
- Bell schedules (starting and ending times)
- Vacation/intersession breaks
- Staff development days
- Minimum day schedules

This coordination should be done so that all significant transportation implications are addressed and transportation resources are effectively utilized.

LENGTH OF SCHOOL DAY, RELATED SERVICES, EXTRACURRICULAR EVENTS

It should be noted that the use of alternative starting times for all special education students at a site could lead to program compliance concerns.
Pupils receiving special education and related services must be provided with an educational program in accordance with their IEP for at least the same length of time as the regular school day for their chronological peer group, unless otherwise stated in a student's IEP. In addition, there may be occasions where the needs of the pupil require receiving therapy or some other related services that cannot be provided during the "established" school day.

If provisions for "early or late" transportation are made for pupils within the general education program due to extra-curricular events, provisions for equal opportunity to these events for pupils with exceptional needs who require special transportation must also be made.

USE OF POLICY AND RESOURCE INFORMATION

An overview of all available transportation resources should be provided to all administrators, IEP team leaders/case mangers or chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided. A sample letter to parents and staff is included in the Appendices.

GUIDELINES FOR INDIVIDUALIZED EDUCATION PROGRAM (IEP) TEAMS

LOCAL EDUCATION AGENCY RULES AND POLICIES

All pupils, including those receiving specialized instruction and services, are subject to the rules and policies governing regular transportation offerings within the local education agency, unless the specific needs of the eligible pupil or the location of the special education program/services dictate that special education transportation is required.

PRIMARY CONSIDERATION: PUPIL NEEDS

The specific needs of the pupil must be the primary consideration when an IEP team is determining any transportation needs. These may include, but are not limited to:

1. Pupil's medical diagnosis and health needs
2. Consideration of whether long bus rides could affect a pupil's health (e.g. duration, temperature control, need for services, health emergencies)
3. Pupil's general ability and/or strength to ambulate/wheel
4. Approximate distance from school or the distance needed to walk or wheel oneself to the school
5. Consideration of pupil's needs in inclement or very hot weather
6. Physical accessibility or curbs, sidewalks, streets, and public transportation systems
7. Pupil's capacity to arrive at school on time
8. Pupil's capacity to avoid getting lost, to avoid dangerous traffic situations and to avoid other potentially dangerous or exploitative situations on the way to and from school
9. Behavioral Intervention Plans specified by the pupil's IEP and consideration of how to implement such plans while a pupil is being transported
10. Other transportation needs mid-day or other transportation needs as required on a pupil's IEP (e.g., occupational or physical therapy or mental health services at another site, community based classes, etc.) must also be taken into consideration when the IEP team discusses a pupil's placement and transportation needs

Sample Transportation Requirements Assessment, Individualized Transportation Plan, and IEP Supplement Page are included in the Appendices.

TRANSPORTATION STAFF AND IEP TEAM MEETINGS

Effective practice requires that procedures are developed for communication with transportation personnel. Transportation staff may be invited to IEP team meetings when:

- the pupil needs the use of adaptive or assistive equipment
- school bus equipment is required to be modified
- the pupil exhibits severe behavioral difficulties and a behavior intervention plan is to be implemented
- the pupil is medically fragile and requires special assistance
- the pupil has other unique needs

TRANSPORTATION OPTIONS

Considering the identified needs of the pupil, transportation options may include, but not be limited to:

- Walking
- Riding the regular school bus
- Utilizing available public transportation (any out-of-pocket costs to the pupil or parents may be reimbursed by the LEA)
- Riding a special bus from a pick up point
- Portal-to-portal special education transportation via a school bus
- Taxi
- Reimbursement of parent's driving with a parent's voluntary participation to provide transportation in lieu of other alternatives
- Other mode as determined by the IEP team

When developing specific IEP goals and objectives related to the pupil's use of public transportation, the IEP team may wish to consider a blend of transportation services as the pupil's needs evolve.

Specialized transportation as a related service must be written on the pupil's IEP with specificity and should be approved by the transportation or special education administrator. It is recommended that services be described in sufficient enough detail to inform the parties of how, when and from where to where transportation will be provided. As needed, detailed arrangements for the reimbursement of parents, which includes the amount and frequency of the reimbursement, should be provided. A sample contract for in lieu transportation is included in the Appendices.

SUSPENSION FROM THE SCHOOL BUS

Occasionally pupils receiving special education services are suspended from bus transportation (EC 48900-48900.7, Grounds for Suspension). Per the Office of Civil Rights, Letter of Finding Complaint No. 04-89-1246, December 8, 1989, the suspension of a pupil receiving special education services can constitute a significant change of placement if the district:

1. Has been transporting the student
2. Suspends the student from transportation as a disciplinary measure
3. Does not provide another mode of transportation

A significant change in placement requires a meeting of the IEP team to review the pupil's IEP. During the period of any exclusion from bus transportation, *the* pupil must be provided with an alternative form of transportation at no cost to the pupil or parent in order to be assured of having access to the required special education instruction and services. EC 48195.5:

> ***EC Section 48915.5 (j) reads: " If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent."***
>
> ***EC Section 48915.5 (C) reads:*** If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

SUMMARY

The LEA providing special education is required to adopt policies for the programs and services it operates, consistent with agreements with other districts or county offices stated as part of the local plan for special education. These policies describe how special education transportation is coordinated with regular home to school transportation and set forth criteria that are consistent with these guidelines for meeting the transportation needs of pupil's receiving special education.

Transportation policies and an overview of all available transportation resources should be provided to all administrators, IEP team leaders, case managers, chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

The specific needs of the pupil must be the primary consideration when an IEP team is determining transportation services. The combination of planning and providing information to IEP teams maximizes appropriate placements and efficient cost-effective transportation systems.