

West End SELPA

Policies and Procedures Manual

Spring 2017



West End SELPA

8265 Aspen Ave., Ste. 200

Rancho Cucamonga, CA 91730

There's A child in Everything We Do!

| West End SELPA BPs and ARs – By Title A-Z | | Board Policies (BPs) | | | Admin. Regulations (ARs) | | |
|---|--|----------------------|-----------------|----------|--------------------------|-----------------|----------|
| Number | Title | 1 st | 2 nd | Approval | 1 st | 2 nd | Approval |
| 3515.5 | Alternative Dispute Resolution | 12/11/15 | 1/22/16 | 1/22/16 | 12/11/15 | 1/22/16 | 1/22/16 |
| 6159.3 | Appointment of Surrogate Parent for Students in Special Education | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 | 12/11/15 |
| 6159.4 | Behavior Interventions | 3/18/16 | 4/22/16 | 4/22/16 | 3/18/16 | 4/22/16 | 4/22/16 |
| 0420.4 | Charter Schools | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| 0430 | Comprehensive Local Plan for Special Education; FAPE; Full Educational Opportunity; Local Compliance Assurances; Interagency Coordination; Governance; State Performance Plan Indicators; Supplementation of State and Federal Funds; Maintenance of Effort; Public Participation; Access to Instructional Materials; Prohibition on Mandatory Medicine; Data/Reading Literacy , Supplementation of State/Federal Funds/ Maintenance of Effort | 3/20/15 | 4/24/15 | 5/29/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 7000 | Cost of Relocatable Buildings for County and Regional Provider Operated Special Education Program | In BP/AR 7000 | | | | | |
| 7000 | Definition of Adequate Space for County and Regional Provider Operated Special Education Classrooms on District Campuses | In BP/AR 7000 | | | | | |
| 3515.2 | Disruption (Formerly Civility) | 3/20/15 | 4/24/15 | 5/29/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 7000 | Facilities | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| AB 602 | Fiscal Allocation Plan | Annually | | | | | |
| 6146.4 | Graduation Standards, Differential Graduation and Competency Standards for Students with Disabilities | 2/20/15 | 3/20/15 | 4/24/15 | 2/20/15 | 3/20/15 | 4/24/15 |
| 6164.4 | Identification and Evaluation of Individuals for Special Education, Child Find (Formerly: Eligibility/Annual/Triennial Reassessment) | 2/20/15 | 3/20/15 | 4/24/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 6159 | IEP, ISP, LRE and Transition Part C (Formerly: IEP/Procedural Safeguards/Part C, Transition | 3/20/15 | 4/24/15 | 5/29/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 5141.31 | Immunizations – Added 4-28-17 | | | | | | |
| 6159.8 | Independent Educational Evaluations – Revised 3/24/17 | 12/9/16 | 3/24/17 | 3/24/17 | 12/9/16 | 3/24/17 | 3/24/17 |
| 0430.5 | Inter-SELPA/District Transfer | 3/18/16 | 4/22/16 | 4/22/16 | 3/18/16 | 4/22/16 | 4/22/16 |
| 6159.2 | Nonpublic, Nonsectarian School and Agency Services for Special Education | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| 033.1 | Over-Identification and Disproportionality | 2/20/15 | 3/20/15 | 4/24/15 | | | |
| 6162.51 | Participation in State and District-Wide Assessments | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |

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| Res 247-2015 | People-First Language for Students with Disabilities, Urging the Use of | | | 4/24/15 | | | |
| 4112.23 | Personnel Qualifications & Qualifications (Formerly: Personnel Standards) Includes RSP and Speech Caseloads | 2/20/15 | 3/20/15 | 4/24/15 | 2/20/15 | 3/20/15 | 4/24/15 |
| 6164.41 | Private Schools | 3/18/16 | 4/22/16 | 4/22/16 | 3/18/16 | 4/22/16 | 4/22/16 |
| 6159.1 | Procedural Safeguards and Complaints for Special Education (Formerly: Procedural Safeguards and Uniform Complaint Procedure) | 3/20/15 | 4/24/15 | 5/29/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 0430.406 | Program Transfer | 2/20/15 | 3/20/15 | 4/24/15 | 2/20/15 | 3/20/15 | 4/24/15 |
| 6163.2 | Service Animals and Animals at School (Formerly: Service Animals) | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| 5141.24 | Specialized Health Care Services | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| 4131 | Staff Development | 2/20/15 | 3/20/15 | 4/24/15 | 2/20/15 | 3/20/15 | 4/24/15 |
| 5125 | Student Records; Confidentiality (Formerly: Access to Student Records and SELPA Documents) | 3/20/15 | 4/24/15 | 5/29/15 | 3/20/15 | 4/24/15 | 5/29/15 |
| 5144.2 | Suspension/Expulsion | 9/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |
| 3541.2 | Transportation (Formerly: Transportation for Students with Disabilities) | 8/25/15 | 12/11/15 | 1/22/16 | 9/25/15 | 12/11/15 | 1/22/16 |

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| 5141.31 | Immunizations - <i>NEW</i> | 12/9/16 | 3/24/17 | 3/24/17 | 12/9/16 | 3/24/17 | 3/24/17 |
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| Res. 247-2015 | People-First Language for Students with Disabilities, Urging the Use of | | | 4/24/15 | | | |

West End SELPA
Resolution 247-2015

Urging the Use of People-First Language for Students with Disabilities

WHEREAS, All students deserve to be treated with dignity and respect; and

WHEREAS, More than 705,000 students with disabilities receive special education services in California, comprising about ten percent of the state's public school enrollment; and

WHEREAS, The West End Special Education Local Plan Area serves the Alta Loma School District, Central School District, Chaffey Joint Union High School District, Chino Valley Unified School District, Cucamonga School District, Etiwanda School District, Mt. Baldy School District, Mountain View School District, Ontario-Montclair School District, Upland Unified School District and San Bernardino County Superintendent of Schools West End Student Services comprised of more than 15,000 students with disabilities.

WHEREAS, Students with disabilities are sons, daughters, sisters, brothers, friends, and neighbors; and

WHEREAS, The contributions of students with disabilities enrich our communities as they live, learn and share their lives; and

WHEREAS, The language used to refer to students with disabilities has a profound impact in shaping beliefs and attitudes about these students, driving policies and laws, influencing our feelings and decisions, and affecting students' daily lives; and

WHEREAS, Old, inaccurate, and inappropriate descriptors about students with disabilities perpetuate negative stereotypes and attitudinal barriers; and

WHEREAS, When we identify or describe students with disabilities primarily in terms of their disability or mental diagnosis, we devalue and stigmatize them; and

WHEREAS, Using thoughtful terminology can foster positive attitudes about students with disabilities; and

WHEREAS, One of the major improvements in communicating verbally or in writing with or about students with disabilities is People-First Language, which places the person ahead of his or her disability; and

WHEREAS, People-First Language is an objective form of communication that eliminates generalizations and stereotypes by focusing on the person rather than the disability; and

WHEREAS, For example, we do not refer to a child with cancer as "a cancerous child," and similarly, we should not refer to a child with autism as an "autistic child" or a child with epilepsy as "an epileptic," and

WHEREAS, A recent report of the Statewide Special Education Task Force called for a unified, inclusive educational system that supports all students based on individual needs;

WHEREAS, The manner in which written and verbal policies and communications refer to students with disabilities can undermine this important state educational goal; and

WHEREAS, The West End Special Education Local Plan Area recognizes the necessity of a more respectful and humanistic view of students with disabilities; now, therefore, be it

WHEREAS, The Superintendents Council of the West end Special Education Local Plan Area, resolves and affirms that state policies and procedures should utilize People-First Terminology to the greatest extent possible, especially those utilized by state and local educational agencies; and be it further

Resolved, That the Secretary of the West End Special Education Local Plan Area transmit copies of this resolution to the author for appropriate distribution.

PASSED AND ADOPTED on April 24, 2015, by the following vote:

AYES: 9 NOES: 0 ABSENT: 1

STATE OF CALIFORNIA, COUNTY OF San Bernardino

I, Susan Bobbitt-Voth, Secretary of the West End SELPA, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the Board at a regularly called and conducted meeting held on said date.



Susan Bobbitt-Voth, Secretary
West End SELPA Superintendents' Council

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

BP 033.1

**CLASSIFICATION: PHILOSOPHY, GOALS, OBJECTIVES AND
COMPREHENSIVE PLANS**

**SUBJECT: OVER-IDENTIFICATION AND
DISPROPORTIONALITY**

Adopted: 9/08

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

It shall be the policy of the West End SELPA and its member districts to prevent inappropriate disproportionate representation by race and ethnicity of students with disabilities.

The West End SELPA member districts shall, with SELPA assistance, monitor student trends with the intent of averting inappropriate, disproportionate representation by race and ethnicity of students with disabilities. The SELPA shall provide the following assistance:

- Student trend data pertinent to the disproportionate calculation as reported through CASEMIS to the California Department of Education.
- Provide up-to-date training and information provided to the SELPA by the California Department of Education.
- Continue to inform member districts concerning responsibilities related to the potential transfer of local assistance funds to reduce disproportionality under the Early Intervening requirement of IDEA.

Legal References:

EDUCATION CODE

56205 (a)

FEDERAL REFERENCES

20 USC section 1412(a)(1)(24)

34 CFR 300.646

34 CFR 300.173

CLASSIFICATION: Philosophy, Goals, Objectives and Comprehensive Plans

SUBJECT: CHARTER SCHOOL AUTHORIZATION

Adopted: 06/03

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Provision of Special Education Services to Students Voluntarily Enrolled in Charter Schools

Rationale

The Superintendents' Council recognizes that charter schools may assist the district in offering diverse learning opportunities for district students. In considering any petition to establish a charter school within the district, the Board shall give careful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential.

This policy applies to all charter schools that are chartered by the West End Special Education Local Plan Area (West End SELPA) member districts, granted a charter on appeal by the San Bernardino County Board of Education or the State Board of Education, or chartered by Local Educational Agencies (LEAs) outside of the West End Special Education Local Plan Area. Charter schools may be a school operated by a district within the West End SELPA or may apply to become a LEA within the West End SELPA. Charter schools operated by member entities and districts within the geographic boundaries of the West End Special Education Local Plan Area as it was originally constituted, may apply directly to the Superintendent's Council to become a LEA in accordance with the Procedures for Charter Schools. Charter Schools and/or other districts applying for LEA status within the West End SELPA, which are located outside the geographic boundaries of West End SELPA, shall submit a justification as to why membership as a West End SELPA LEA is preferable to other alternatives in addition to following Procedures for Charter Schools. It shall be the policy of the LEAs that a request by a charter school to participate as a local educational agency in a special education local plan area may not be treated differently from a similar request made by a school district. (EC 47605(k)(1), 47605.5, 47645)

As students enrolled in charter schools are entitled to special education services provided in a similar manner to students enrolled in other public schools, charter schools within the West End SELPA shall comply with applicable state and federal laws regarding provision of special education services (Education Code 56000 et seq., Individuals with Disabilities Education Act 20 U.S.C. Chapter 33, 1400 et seq.). A charter school shall not discriminate against any pupil in its admission criteria on the basis of disability.

Policy Statement

Special education and related services shall be provided to all eligible individuals within West End SELPA in accordance with this Local Plan. Students enrolled in charter schools chartered within the county shall receive services in a manner similar to students enrolled in member districts within the West End SELPA. Funding for special education services, participation in the governance structure, and responsibility for provision of services shall be based on the status and categorization of the individual charter school. The special education funding for charter schools operated by the West End SELPA member districts will be allocated to the district in accordance with the AB 602 Implementation Plan and Annual Budget Plan requirements. The district designees shall represent charter schools operated by West End SELPA

member districts on the Operations Committee and Superintendents Council. Students enrolled in charter schools operated by member entities shall receive comparable services as students enrolled in other public schools within the West End SELPA. LEA charter schools within the West End SELPA will receive special education funds directly and will be represented on the Operations Committee. Each LEA charter school will have one vote on the Superintendents Council.

All West End SELPA LEAs, including charter school LEAs, will document that all state and federal special education funds apportioned to the LEA are used for the sole purpose of providing special education instruction and/or services to identified students with disabilities. Reimbursement to the West End SELPA for any special education apportionment that is not used solely for that purpose will be in accordance with the AB 602 Implementation Plan provisions for all districts.

All approved charter schools will be deemed as public schools within a district unless the charter school has been deemed an LEA.

West End SELPA Involvement with Charters

For the purposes of provision of special education services, charter schools may be deemed either an LEA or a public school within the chartering district.

Public School Within a School District

Charter schools that are deemed to be public schools within a district will participate in the state and federal funding in the same manner as other schools within the chartering district. The chartering district will be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education and designated instructional services in a manner that is consistent with all applicable provisions of state and federal law. The district will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students in the regular program.

The chartering district will receive all applicable special education funds. The chartering district will represent the needs of charter schools, like other schools within the district, in the SELPA governance structure. The chartering district will be responsible for ensuring that all eligible students are appropriately served. The district will be responsible for procuring and funding appropriate special education services, even though the student may reside anywhere in the State of California.

The district and the charter school may enter into agreements whereby the charter school is billed for excess costs associated with providing special education services to identified students, including the administration of special education programs. The charter school should also be held fiscally responsible for a fair share of any encroachment on district general funds that is created by the provision of special education services throughout the district.

Charter School as a LEA within the SELPA

A charter school may apply to become a LEA for the provision of special education services. Application must be made to the West End SELPA by February 1 of the school year preceding the school year in which the charter school anticipates operating as a LEA within the West End SELPA. The Superintendents' Council will make the final determination whether the charter school has met all requirements of a LEA. The requirements include:

1. Meet the terms of the agreement regarding Identification, Screening, Referral, Assessment, Instructional Planning, Implementation, and Review.
2. Meet the terms of the agreement regarding Procedural Safeguards.
3. Meet the terms of the agreement regarding Regionalized Services.

Once deemed a LEA, the charter school will be responsible for and entitled to the following:

1. Participate in the governance of the West End SELPA in the same manner as other districts within the West End SELPA.
2. Receive state and federal funding for special education in accordance with the West End SELPA Allocation Plan.
3. Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, transportation, nonpublic school/agency placements, inter/intra-SELPA placements, due process proceedings, complaints, and attorney fees.
4. Receive services from the West End SELPA including dispute resolution and nonpublic school/agency tuition in the same manner as other districts within the West End SELPA.

Administrative Guidelines

Petitions

One or more persons may submit a petition for a start-up charter school to be established within the district. In addition, an existing district school may be converted to a charter school when deemed beneficial by the district and community or when state or federal law requires restructuring of the school because of low performance.

A petition for the creation of a charter school which seeks to be determined a LEA, must contain adequate assurances that the proposed school will comply with all applicable provisions of state and federal law and implementing regulations related to the rights of students with disabilities and their parents (20 U.S.C. Chapter 33, Individuals with Disabilities Education Act).

The LEA governing board may require that a petition include the means by which the charter school intends to serve students with disabilities. This may include a specific reference as to whether the charter school intends to be deemed a LEA or public school for the provision of special education services. The LEA governing board may require that a petition contain assurances that no student will be denied admission to the charter school based on disability or lack of available services.

Any petition for a start-up charter school or conversion charter school shall include all components and signatures required by law and shall be submitted to the Board.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, he/she also may meet with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

Prior to approving a charter school petition, the superintendent or designee of the chartering entity may consult with the West End SELPA Administrator regarding the provision of special education services to students enrolled in the prospective charter school. Charter schools must delineate in their petition or memorandum of understanding (MOU) the entity responsible for providing special education instruction and services. The charter petition, or an accompanying Memorandum of Understanding or Business Services Agreement, must reference any anticipated transfer of special education funds between the granting entity and the charter school for the allocation of excess costs and/or the charter school's fair share of special education encroachment on the district general fund. The chartering entity may not require that a charter school seek LEA status. This document must affirm, in writing, that the district where the student resides, if different than the chartering entity, is not responsible for providing special education services to students that are enrolled in the charter school.

The LEA governing board may require that a petition include the means by which the charter school intends to serve students with disabilities. This may include a specific reference as to whether the charter school intends to be deemed an LEA or public school for the provision of special education services. The LEA governing board may require that a petition contain assurances that no student will be denied admission to the charter school based on disability or lack of available services.

A district IEP team may place a student in a charter program only with agreement between responsible educational entities and parental consent. Under such circumstances, the placing district will be responsible for any excess costs in accordance with the Local Plan. The chartering district will be allocated all special education funds that are generated by a charter school that is deemed a public school.

Once admitted to a charter school, any special education services required by enrolled students will be provided by the district which authorized the charter if the school is deemed a public school within the district or by the charter school if deemed an LEA. If a charter school IEP team places a student in a special education program provided by another educational entity (i.e., a COE, nonpublic school, non-public agency, or another district or West End SELPA), the charter school will be responsible for any excess costs attributable to the placement in accordance with the West End SELPA fiscal allocation plan. Responsibility for excess costs will rest with the placing charter school or LEA authorizing the charter school.

The chartering district will represent the needs of the charter schools it authorizes that are deemed public schools of the LEA in the West End SELPA governance structure. The charter school will receive West End SELPA services in the same manner as other schools within the chartering district depending on charter school agreement or MOU with the LEA. If the approval of a charter school requires a change in the West End SELPA allocation plan, such change shall be adopted pursuant to the policy making process outlined in the West End SELPA Local Plan.

Within 30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board, the Board shall either approve or deny the request to establish the charter school. (Education Code 47605)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

Approval of Petition

Prior to approval of a new charter, the Superintendent or designee of the chartering entity shall consult with the West End SELPA Administrator regarding the status of the charter school. In order to be deemed a LEA, the chartering entity will provide assurances that all eligible students, including those students enrolled in the charter school, will receive appropriate special education services.

The Board shall approve the charter petition if doing so is consistent with sound educational practice. In granting charters, the Board shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education (CDE) under Education Code 54032. (Education Code 47605)

All approved charter schools will be deemed as public schools within a district unless the charter school has been deemed a LEA. The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47605, 47605.5, 47606, 47607)

The Board shall ensure that any approved charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and regular reports to the Board.

The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)

The Board may approve one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school. Any such memorandum of understanding shall be annually reviewed by the Board and charter school governing body and amended as necessary.

It shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the CDE, and the State Board of Education (SBE). (Education Code 47605)

Denial of Petition

The Board shall deny any petition to authorize the conversion of a private school to a charter school or that proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code 47602, 47605; 5 CCR 11965)

Any other charter petition shall be denied only if the Board presents written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll disabled students who reside outside the special education local plan area in which the district participates. (Education Code 4705.7, 47647)

If the Board denies a petition, the petitioners may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to the SBE. (Education Code 47605)

Renewal, Revision, or Revocation of Charters

Prior to renewal of a charter, the Superintendent or designee of the chartering entity shall consult with the West End SELPA Administrator regarding the status of the charter school. In order to be deemed a LEA, the chartering entity will provide assurances that all eligible students, including those students enrolled in the charter school, will receive appropriate special education services.

A material revision of the provisions of a charter petition may be made only with the authority that granted the charter; a school district governing board; a county board of education, or the State Board of Education. The authority that grants the charter may inspect or observe any part of the charter school at any time. Reversals and material revisions of charters shall be governed by the standards and criteria in Education Code 47605.

A charter may be revoked by the granting authority if it is found that the charter:

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter, and/or
2. Failed to meet or pursue any of the pupil outcomes identified with the charter, and/or
3. Failed to meet generally accepted accounting principles or engaged in fiscal management, and/or
4. Violated any provision of law.

Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation and give the school a reasonable opportunity to remedy the violation, unless the authority

determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

Legal References:

Local Plan Page 31

EDUCATION CODE

220 Nondiscrimination
17078.52-17078.66 Charter schools facility funding; state bond proceeds
17280-17317 Field Act
17365-17374 Field Act, fitness for occupancy
41365 Charter school revolving loan fund
42238.51-42238.53 Funding for charter districts
44237 Criminal record summary
44830.1 Certificated employees, conviction of a violent or serious felony
45122.1 Classified employees, conviction of a violent or serious felony
46201 Instructional minutes
47600-47616.7 Charter Schools Act of 1992
47640-47647 Special education funding for charter schools
47650-47652 Funding of charter schools
51745-51749.3 Independent study
52051.5-52052 Academic performance index, applicability to charter schools
52052 Numerically significant student subgroup, definition
53300-53303 Parent Empowerment Act
56026 Special education
56145-56146 Special education services in charter schools
56195 Charter School
56195.1(f) Charter School
56203 Elements of the Local Plan
56205 State Requirements
56207.5 Charter Schools Participation in Special Education Local Plan
56836.11 Computation of Apportionments

CORPORATIONS CODE

5110-6910 Nonprofit public benefit corporations

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

CODE OF REGULATIONS, TITLE 5

4800-4808 Parent Empowerment Act

11700.1-11705 Independent Study

11960-11969 Charter schools

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

UNITED STATES CODE, TITLE 20

1400 et seq. Individuals with Disabilities Education Act, 1997

6312 Program Improvement

7223-7225 Charter schools

CODE OF FEDERAL REGULATIONS, TITLE 34

300.312 Children with Disabilities in Public Charter Schools

300.241 Treatment of Charter Schools and their Students

COURT DECISIONS

Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App. 4th 986

ATTORNEY GENERAL OPINIONS

89 Ops.Cal.Atty.Gen. 166 (2006)

80 Ops.Cal.Atty.Gen. 52 (1997)

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Management Resources:

CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

Charter Schools: A Manual for Governance Teams, rev. 2009

Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005

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California School Accounting Manual

Sample Copy of a Memorandum of Understanding

Special Education and Charter Schools: Questions and Answers, September 10, 2002

U.S. DEPARTMENT OF EDUCATION GUIDANCE

Charter Schools Program: Title V, Part B of the ESEA, April 2011

Charter Schools Program, July 2004

The Impact of the New Title I Requirements on Charter Schools, July 2004

WEBSITES:

CSBA: <http://www.csba.org>

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://qualitycharters.org>

U.S. Department of Education: <http://www.ed.gov>

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

CLASSIFICATION: Philosophy, Goals, Objectives and Comprehensive Plans

SUBJECT: CHARTER SCHOOL AUTHORIZATION

AR 0420.4

Adopted: 00/00/00

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Categories of Charter Schools

For the purposes of the provision of special education services, charter schools shall be deemed either a public school within the chartering district or a Local Educational Agency (LEA) that receives funds and provides services independent of the chartering entity. All approved charter schools will be deemed public schools within the chartering entity unless the charter school has been deemed a LEA following this policy. The categorization as a separate LEA will become effective on the first day of the fiscal year (July 1), following final approval by the West End Special Education Local Plan Area (West End SELPA) Superintendents' Council.

Petition Signatures

A petition for the establishment of a start-up charter school must be signed by either of the following: (Education Code 47605)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation
2. A number of teachers equivalent to at least one-half of the total number of teachers that the charter school estimates will be employed at the school during its first year of operation

If the charter petition calls for an existing public school to be converted to a charter school, the petition must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

In circulating a petition, the petitioners shall include a prominent statement explaining that a parent/guardian's signature means that the parent/guardian is meaningfully interested in having his/her child attend the charter school or, in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. (Education Code 47605)

Advisory Committee

At his/her discretion, the Superintendent or designee shall establish a staff advisory committee to evaluate the completeness of a petition or the merits of a proposed educational program and to identify any concerns that should be addressed by the petitioners. The Superintendent or designee shall also consult with legal counsel, as appropriate, regarding compliance of the charter proposals with legal requirements.

Components of Charter Petition

The charter petition shall include affirmations of the conditions described in Education Code 47605(d) as well as reasonably comprehensive descriptions of: (Education Code 47605, 47611.5)

1. The educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

The petition shall include a description of annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, and foster youth. These goals shall be aligned with the state priorities listed in Education Code 52060 that apply to the grade levels served or the nature of the program operated by the charter school. The petition shall also describe specific annual actions to achieve those goals. The petition may identify additional priorities established by the charter school, goals aligned with those priorities, and specific annual actions to achieve those goals.

If the proposed school will serve high school students, the petition shall describe the manner in which the charter school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the "a-g" admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in the student academic achievement both school-wide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code 52060 that apply for the grade levels served or the nature of the program operated by the charter school.
3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.
4. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.
5. The qualifications to be met by individuals to be employed by the school.
6. The procedures that the school will follow to ensure the health and safety of students and staff, including the requirement that each school employee furnish the school with a criminal record summary as described in Education Code 44237.
7. The means by which the school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction.

8. Admission requirements, if applicable.
9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the Governing Board's satisfaction.
10. The procedures by which students can be suspended or expelled.
11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal Social Security.
12. The public school attendance alternatives for students residing within the district who choose not to attend the charter school.
13. A description of the rights of any district employee upon leaving district employment to work in the charter school and of any rights of return to the district after employment at the charter school.
14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.
15. A declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for the purposes of collective bargaining under Government Code 3540-3549.3.
16. The procedures to be used if the charter school closes, including, but not limited to: (5 CCR 11962)
 - a. Designation of a responsible entity to conduct closure-related activities
 - b. Notification to parents/guardians, the Board, the county office of education, the special education local plan area in which the school participates, the retirement systems in which the school's employees participate, and the California Department of Education, providing at least the following information:
 - i. The effective date of closure
 - ii. The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure
 - iii. The students' districts of residence
 - iv. The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements

- c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with item #16a above
- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the custody of the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
- e. Transfer and maintenance of personnel records in accordance with applicable law
- f. Completion of an independent final audit within six months after the closure of the school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of disposition of any restricted funds received by or due to the school
- g. Disposal of any net assets remaining after all liabilities of the school have been paid or otherwise addressed pursuant to 5 CCR 11962
- h. Completion and filing of any annual reports required pursuant to Education Code 47604.33
- i. Identification of funding for the activities identified in items #16a-h above

Charter school petitioners shall provide information to the Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605)

- 1. The facilities to be used by the school, including where the school intends to locate
- 2. The manner in which administrative services of the school are to be provided
- 3. Potential civil liability effects, if any, upon the school and district
- 4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation

Location of Charter School

Unless otherwise exempted by law, the charter petition shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

A charter school that is unable to locate within the district's jurisdictional boundaries may establish one site outside of district boundaries but within the county, provided that: (Educational Code 47605, 47605.1)

- 1. The district is notified prior to the approval of the petition
- 2. The County Superintendent of Schools and the Superintendent of Public Instruction are notified before the charter school begins operations.

3. The charter school has attempted to locate a single site or facility to house the entire program but such a facility or site is unavailable in the area in which the school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

A charter school may establish and locate a resource center, meeting space, or other satellite facility in an adjacent county if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students who are enrolled in the nonclassroom-based independent study of the charter school
2. The charter school provides its primary educational services in, and a majority of the students it serves are residents of, the county in which the school is authorized.

Public School within a School District

Charter schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools of programs within the chartering entity, as evidenced by allocation of special education funding or services at the same level as for other schools or programs. The Memorandum of Understanding (MOU) between the charter school and the LEA should describe the process for funding the special education programs in the charter schools, including a fair share of the district encroachment and/or excess costs. The chartering entity will be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education and related services in a manner that is consistent with all applicable provisions of state and federal law and the West End SELPA Local Plan. The chartering entity will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students enrolled in other schools or programs administered by the chartering entity. The chartering entity will:

- Receive all applicable special education funds as specified in the West End SELPA AB 602 Implementation Plan. The allocation under ADA in the charter school will be the same as that received by the chartering entity, if chartered by a district. If the LEA allocates special education funding directly to the charter school, the funds must be spent solely for the provision of special education and related services to children with disabilities enrolled in the charter school. Any funds not utilized by the charter school for this purpose may be retained by the LEA to provide special education and related services to other children with disabilities enrolled in the district, subject to the provisions of the applicable AB 602 Implementation Plan;
- Represent the needs of the charter school in the West End SELPA governance structure;
- Be responsible for ensuring that all eligible students enrolled in the charter school are appropriately referred, evaluated, and served in a timely manner; and
- Be responsible for procuring and funding appropriate special education services, wherever the student may reside.

The chartering entity and the charter school may enter into business agreements or contracts whereby the charter school agrees to pay for the excess costs associated with providing special education services to identified students including the administration of special education programs. When the chartering entity

is a district, the charter school should be held fiscally responsible for a fair share of any encroachment on district general funds that is created by the provision of special education services throughout the district.

Charter School as a LEA within the SELPA

A charter school that was chartered by or assigned to a West End SELPA member district may apply to the Superintendents' Council of the West End SELPA to become a LEA for the provision of special education services. Charter schools applying for LEA status within the West End SELPA, which are located outside the geographic boundaries of the West End SELPA, shall submit a justification as to membership as a West End SELPA district is preferable to other alternatives.

A charter school, wishing to be deemed a member of the West End SELPA must apply by February 1st of the prior year for membership on July 1st. The Superintendents' Council will consider the request at the next regularly scheduled meeting and notify the applicant of their decision. LEA status will not become effective prior to July 1 of the year in which final approval was granted. Prior to final approval, the charter school seeking LEA status shall submit a comprehensive special education compliance review and remediation plan for approval by the Operations Committee. Once granted LEA status, a charter school will participate on an equal basis with other members in the governance of the West End SELPA. The LEA charter school will choose a representative to the Superintendents' Council and be represented on the Operations Committee as specified in the Local Plan. The representative to the Superintendents' Council must be the chief executive officer.

Upon review of the application for LEA Status in the West End Special Education Local Plan Area, completed by the charter school, the applicant charter school will be deemed a LEA if the Superintendents' Council determines that the charter school has met all requirements to be included as a member LEA of the West End SELPA as specified in the charter school policies, these procedures, and the West End SELPA Local Plan. Since LEA charter schools will be participating as equal member districts, a comparable level of program need to the other districts is required. These requirements include:

- Provide a specific description of the internal resources which would allow the West End SELPA to make a determination of the charter school's capacity to operate as a LEA member of the West End SELPA;
- Be in operation a minimum of two years prior to the application;
- Provide assurances that all individuals with exceptional needs (ages birth to 22) shall have access to appropriate special education programs and services;
- Provide special education services to a comparable percentage of students with disabilities as other West End SELPA districts, as documented on the prior year December 1 pupil count;
- Provide assurances that each special education provider is appropriately credentialed or licensed to serve in his/her assignment;
- Provide necessary staff as required to meet federal and state mandates;
- Follow all applicable state and federal laws and West End SELPA policies and procedures;

- Utilize West End SELPA approved forms;
- Place special education students in programs administered by other districts in accordance with procedures for Intra-SELPA or Inter-SELPA transfers;
- Provide transportation as indicated on the student's IEP; and
- Indemnify and hold harmless each of the member entities.

Once deemed a LEA, the charter school shall:

- Participate in the governance of the West End SELPA by naming one representative to the Operations Committee and the Superintendents' Council;
- Contribute to, participate in, and receive benefits of reimbursement from **the West End SELPA X-Pot pool** in the same manner as other member districts of the pool;
- Receive state and federal funding for special education in accordance with West End SELPA AB 602 Funding Implementation Plan. The initial funding allocation for LEA charter schools will be equal to the lowest per ADA average of a West End SELPA district, which will be the LEA charter school's base rate for funding adjustments in subsequent years;
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, services, transportation, nonpublic school/agency placements, inter/intra-SELPA placements, due process proceedings, complaints and attorney fees;
- Provide documentation that special education apportionment is used solely for the purpose of providing special education instruction and/or services to identified students with disabilities. Any apportionment not used for provision of special education will be recaptured in accordance with the provisions of the AB 602 Implementation Plan applicable to all West End SELPA member districts.

CLASSIFICATION: PHILOSOPHY, GOALS, OBJECTIVES, AND
COMPREHENSIVE PLANS

Adopted: 00/00/00
Revised: 00/00/00
First Reading: 3/20/15
Second Reading: 4/24/15
Adopted: 5/29/15

SUBJECT: COMPREHENSIVE LOCAL PLAN FOR SPECIAL
EDUCATION

Free Appropriate Public Education (FAPE)

The West End SELPA Superintendents' Council desires to provide an appropriate education for all students, including those with disabilities, from birth through age 21 inclusive, including students with disabilities who have been suspended or expelled from school, or placed by the district in a nonpublic, nonsectarian school. The Superintendents' Council recognizes that all individuals with disabilities have the right to receive a free and appropriate public education. The term free appropriate public education means special education and related service(s) as determined through the Individualized Education Program (IEP) process that meets the unique needs of each individual in order to derive benefit from his/her access to an educational program, that are provided at public expense under public supervision and direction, and without charge, meet the standards of the state educational agency, include an appropriate preschool, elementary school, or secondary school education and are provided in conformity with the individualized education program required under section 614 (d). The parent shall be included as a member of the IEP team.

Students shall be referred for special education instruction and services only after the resources of the regular education program have been considered, and where appropriate, utilized. (Education Code 56303).

Full Educational Opportunity

The West End SELPA member districts and LEAs shall provide pupils with disabilities access to the variety of educational programs and services available to non-disabled pupils including non-academic and extra-curricular services and activities. The LEAs and West End SELPA shall monitor the provision of special education services to ensure compliance with applicable state and federal laws and with the SELPA Local Plan.

Modifications and/or special services and aids shall also be provided as needed for students who are eligible for services under Section 504 of the Federal Rehabilitation Act of 1973, the American with Disabilities Act and related federal regulations. In order to meet the needs of individuals with disabilities and employ staff with adequate expertise for this purpose, the district participates as a member of the West End Special Education Local Plan Area (SELPA).

Information shall be provided by member districts and LEAs concerning the number of individuals with exceptional needs who are being provided special education and related services (Education Code 56195.8). This information is reported to the California Department of Education.

Access to Instructional Materials

It shall be the policy of the West End SELPA and its member districts to provide instructional materials to blind students or other students with print disabilities in a timely manner according to the state adopted National Instructional Materials Accessibility Standard.

Data/Reading Literacy

It shall be the policy of the LEAs that in order to improve the educational results for students with disabilities, the West End SELPA local plan shall include specific information to ensure that all students who require special education will participate in the California Reading Initiative.

Interagency Agreement/Coordination

It shall be the policy of the LEAs that interagency agreements or other mechanisms for interagency coordination are in effect to ensure services required for FAPE are provided, including the continuation of services during an interagency dispute resolution process.

Least Restrictive Environment

The West End SELPA member districts and LEAs shall provide special education instruction and services for individuals with exceptional needs in accordance with the federal Individuals with Disabilities Education Act. To the maximum extent appropriate, children with disabilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Local Compliance Assurances

The superintendent or designee shall extend the district's full cooperation to the West End SELPA. The policies and procedures of the SELPA shall be applied as policies and regulations of each member district or LEA, with the exception of those that apply to complaints, unless the West End SELPA plan specifically authorizes the district to operate under its own policies and regulations.

Governance

It shall be the policy of the West End SELPA that the local plan shall be adopted by the appropriate local board(s) of the district/San Bernardino County and is the basis of the operation and administration of special education programs; and that the local plan agencies herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the Individuals with Disabilities Education Act, Federal Rehabilitation Act of 1973, Section 504 of Public Law, the Americans with Disabilities Act, and the provisions of the California Education Code, Part 30.

The West End Special Education Local Plan Area (West End SELPA) shall administer a local plan and administer the allocation of funds. (Education Code 56195).

It shall be the policy of the LEAs to support and comply with the provisions of the governance bodies and any necessary administrative support to implement the local plan. A final determination that an LEA is not eligible for assistance under this part will not be made without first affording that LEA with reasonable notice and an opportunity for a hearing through the State Educational Agency.

Maintenance of Effort

It shall be the policy of the West End SELPA and its member districts that federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of children with disabilities except as provided in federal law and regulations.

The LEAs of West End SELPA shall follow federal and state laws pertaining to the required Maintenance of Effort (MOE) spending levels for special education. If an LEA, or more than one LEA, does not meet the required spending levels to pass the MOE tests and the West End SELPA loses funding as a result of failure to pass the MOE requirements, the LEA(s) that caused the West End SELPA to fail the MOE requirements shall reimburse the West End SELPA for any funds lost by the other LEAs or the West End SELPA office, upon final approval of the Superintendents' Council.

Participation in State-Wide Assessments

It shall be the policy of the LEAs that all students with disabilities shall participate in state and district-wide assessment programs. The IEP team determines how a student will access assessments with or without accommodations and/or modifications, or access alternate assessments, consistent with state standards governing such determinations.

Prohibition on Mandatory Medicine

It shall be the policy of the West End SELPA and its member districts to prohibit school personnel from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services. It shall be the policy of the LEAs to provide data or information to the West End SELPA and the CDE that may be required by regulations.

Public Participation

It shall be the policy of the West End SELPA that, public hearings, adequate notice of hearings, and an opportunity for comment are available to the general public, including individuals with disabilities and parents of children with disabilities prior to the adoption of any policies and/or regulations needed to comply with Part B of the IDEA.

Meetings and Notices

Meetings of the West End SELPA Superintendents' Council are conducted for the purpose of accomplishing SELPA business.

A Superintendents' Council meeting exists whenever a majority of members gather at the same time and place to hear, discuss or deliberate upon any item within the subject matter jurisdiction of the Superintendents' Council. (Government Code 54952.2)

In accordance with state open meeting laws, the Superintendents' Council shall hold its meetings in public and shall conduct closed sessions during these meetings only to discuss confidential matters specified by law. To encourage community involvement in the schools, meetings shall provide opportunities for questions and comments by members of the public and shall be conducted in accordance with law and SELPA adopted bylaws.

When addressing the Superintendents' Council during Public Input, comments are to be limited to three (3) minutes or less for each speaker, with a maximum of 20 minutes total for each item. This time limit may be extended upon a majority vote of the members of the Superintendents' Council.

Agenda/Meeting Materials

Superintendents' Council meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

The agenda shall provide members of the public the opportunity to address the Superintendents' Council agenda item before or during the Council's consideration of the item. The agenda shall also provide members of the public an opportunity to testify at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the Superintendents' Council. (Education Code 35145.5; Government Code 54954.3)

The agenda shall specify that an individual who requires disability-related accommodations or modifications including auxiliary aids and services in order to participate in the Superintendents' Council meeting should contact the SELPA Administrator or designee in writing.

Meeting Conduct

All Superintendents' Council meetings shall begin on time and shall be guided by an agenda prepared and delivered in advance to all Superintendents' Council members and to other persons upon request.

The chairperson shall conduct Superintendents' Council meetings in accordance with SELPA bylaws and procedures that enable the Superintendents' to efficiently consider issues and carry out the will of the majority.

State Performance Plan Indicators

It shall be the policy of the West End SELPA and its member districts to comply with the requirements of the State Performance Plan Indicators (SPPI) developed by the California Department of Education and provide data as required by the CDE.

The West End SELPA and its member districts believe that all students need to meet high standards of academic knowledge and skills. In addition, they must have the ability to apply their skills to the workplace where they will be required to adapt to emerging technologies and changing societal needs. The West End SELPA and its member districts recognize that content and performance standards are necessary to clarify for students, parents/guardians, and staff what students are expected to know and be able to perform at each grade level and in each area of study. Students' goals on their individual IEPs shall be based on state content standards whenever appropriate.

Each LEA in West End SELPA shall provide data and/or information to the California Department of Education required by regulations for purposes of the State Performance Plan on at least an annual basis to determine priorities for program improvement. Current data reporting includes, but is not limited to:

- Pupil count information through CASEMIS
- Desired Results Developmental Profile

Supplementation of State and Federal Funds

The ten member districts comprising the West End Special Education Local Plan Area (West End SELPA) utilize a combination of federal, state, and local funds to provide a free and appropriate public education to

all children with disabilities in the West End SELPA. Federal and state special education funds are distributed to the LEAs as per the AB 602 Implementation Plan.

It shall be the policy of the West End SELPA and its member districts to provide assurances that funds received from Part B of the IDEA will be expended in accordance with the applicable provisions of the IDEA and will be used to supplement, and not to supplant, state, local, and other federal funds.

It shall be the policy of the LEAs that federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of children with disabilities except as provided in federal law and regulations.

Each LEA shall assure compliance through sound budget development and fiscal review. Each LEA shall provide the West End SELPA the documentation necessary to develop the Annual Service Plan, the Annual Budget Plan and Maintenance of Effort. A detailed description of the distribution of local, state and federal funds is contained in the West End SELPA Fiscal Allocation Plan and Procedures.

Legal References:

EDUCATION CODE

| | |
|---------------|---|
| 5095 | Powers of remaining board members and new appointees |
| 32210 | Willful disturbance of public school or meeting a misdemeanor |
| 35010 | Prescription and enforcement of rules |
| 35140 | Time and place of meetings |
| 35143 | Annual organizational meeting, date, and notice |
| 35144 | Special meeting |
| 35145 | Public meetings |
| 35145.5 | Agenda; public participation; regulations |
| 35163 | Official actions, minutes and journal |
| 35164 | Vote requirements |
| 54950-54957.9 | Meetings, especially: |
| 54953 | Meetings to be open and public; attendance |
| 54953.2 | Compliance with Americans with Disabilities Act |
| 54953.5 | Audio or video tape recordings of proceedings |
| 54954 | Time and Place of regular meetings |
| 54954.1 | Mailed notices |
| 54954.2 | Agenda posting requirements, board actions |
| 54954.3 | Opportunity for public to address legislative body |
| 54954.5 | Closed session item descriptions |
| 54956 | Special meetings; call; notice |
| 54956.5 | Emergency meetings |
| 54957 | Closed sessions |
| 54957.5 | Agenda distribution |
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 56300-56382 Identification and referral, assessment, instructional planning, implementation, and review
 56440-56447.1 Programs for individuals between the ages of three and five years
 56500-56508 Procedural safeguards, including due process rights
 56600-56606 Evaluation, audits and information
 56836-56836.03 Administration of local plan
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 GOVERNMENT CODE
 95000-95029 California Early Intervention Services Act
 CODE OF REGULATIONS, TITLE 5
 3000-3082 Regulations governing special education
 AB 602 (Chapter 854, Statutes of 1997) Funding
 UNITED STATES CODE, TITLE 20
 1400-1485 Individuals with Disabilities Act
 CODE OF FEDERAL REGULATIONS, TITLE 28
 35.160.i Effective communications
 36.303 Auxiliary aids and services
 UNITED STATES CODE, TITLE 29
 794 Rehabilitation Act of 1973, Section 504
 UNITED STATES CODE, TITLE 42
 12101-12213 Americans with Disabilities Education Act
 CODE OF FEDERAL REGULATIONS, TITLE 34
 99.10-99.22 Inspection, review and procedures for amending education records
 104.1-104.39 Section 504 of the Rehabilitation Act of 1973
 30.200-209
 30.231-2
 300.300(a)(3)
 300.340-300.351
 300.500-300.517 Due process procedures for parents and children
 303.1-303.654 Early intervention program for infants and toddlers with disabilities
 STATE BOARD
 Requirement 02/99
 ATTORNEY GENERAL OPINIONS
 84 Ops.Cal.Atty.Gen. 181 (2001)
 84 Ops.Cal.Atty.Gen. 69 (1996)
 78 Ops.Cal.Atty.Gen. 327 (19
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 ATTORNEY GENERAL OPINIONS
 59 Ops.Cal.Atty.Gen. 532 (1976)
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 63 Ops.Cal.Atty.Gen. 215 (1980)

66 Ops.Cal.Atty.Gen. 336, 337 (1983)
76 Ops.Cal.Atty.Gen. 281 (1993)

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

AR 0430

CLASSIFICATION: PHILOSOPHY, GOALS, OBJECTIVES AND COMPREHENSIVE PLANS

Adopted: 00/00/00

Revised: 00/00/00

First Reading: 3/20/15

Second Reading: 4/24/15

Adopted: 5/29/15

SUBJECT: COMPREHENSIVE LOCAL PLAN FOR SPECIAL EDUCATION

The districts comprising the West End Special Education Local Plan Area (West End SELPA) provide a free appropriate public education (FAPE) to all students with disabilities residing in the district(s) from birth to age 21 inclusive, including students with disabilities who have been suspended or expelled from school.

The determination that a student is in need of a service shall be based on an appropriate evaluation that determines eligibility and establishes the need for services (BP 6164.4). All special education and related services determined to be necessary by the Individualized Education Program (IEP) team shall be listed on the IEP (BP 6159). The parent shall be included as a member of the IEP team. The district shall ensure that services are provided in accordance with the IEP, regardless of which agency or contractor provides the service(s).

Definitions

Free Appropriate Public Education (FAPE) means special education and related service(s) that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the California Department of Education, state and federal law, including the requirements of 34 CFR 300.1-300.818; include appropriate infant, preschool, elementary school, and/or secondary school education for individuals between the ages of 3 and 31; and are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320-300.324. (34 CFR 300.17, 300.101, 300.104; Education Code 56040)

FAPE applies to students who are suspended or expelled or placed by the district in a nonpublic, nonsectarian school. (34 CFR 300.17, 300.101, 300.104).

Guidelines for Determining a Free Appropriate Public Education

- FAPE is determined within the context of an IEP meeting with active participation from all members, including the parents. In no case should decisions concerning eligibility or placement be made outside of the IEP team.
- When determining eligibility for special education, the team must first identify the area(s) of disability and secondly must determine the need for special education and related services.
- There must be a direct correlation between the IEP goals and the services provided.
- Placement and services are determined by the student's unique needs and IEP goals, not the disability
- Specific methodologies are usually not included in the IEP. Once the needs of the student are determined and the goals established, the teacher determines the specific methodology and instructional strategies.
- Special education and related services should always be provided in the least restrictive environment (LRE).

- Special education and related services must address the unique needs of the student that are required for the student to benefit from his/her educational program.

Full Educational Opportunity

Special education services for students from birth through 2 years, 11 months, are provided under the provisions of the *California Early Start Interagency Agreement*. Preschool special education services are available to all eligible students in their home district or in an SBCSS West End Student Services' program located within the West End SELPA region. The caseload for a speech/language specialist, who provides services exclusively to students with disabilities between the ages of three and five, shall not exceed 40.

A full continuum of program options is provided to students from preschool through grade 12 by the Local Education Agencies (LEA) in the West End SELPA. Special Education includes instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education to meet the education and service needs in the LRE. The appropriate placement for a student is determined by the IEP team based on the student's instructional needs and not on the student's disability category.

Options include:

- **General Education Classroom:** students are educated in age-appropriate general education classrooms at their neighborhood schools with the necessary accommodations, supports, and services for the student to progress toward his/her IEP goals.
- **Related Services (formerly Designated Instruction and Services (DIS))** as defined by federal and state law and are available to students if a developmental, corrective, and/or supportive service is required for the student to benefit from special education. Specialists provide these services and may work with students individually or in small groups either in the general education classroom or other appropriate settings. In some instances, these services are provided by certified nonpublic agencies/providers. The average caseload for language, speech, and hearing specialists in the West End SELPA shall not exceed 55.
- **Specialized Academic Instruction (SAI)** is available at every school site for students in kindergarten through grade 12. This program provides a broad range of services from supplementing the general education program to providing intensive services for students whose disabilities are more severe. Services may occur in either individual or small group settings, as a component of an Integrated School Based Services Program, or as consultative or collaborative services within general education or other settings. Districts may choose to provide SAI through a Resources Specialist Program (RSP) or Special Day Class (SDC) setting. The caseload for a RSP cannot exceed 28 students. Students are placed in programs as close to their home school as possible.
- **Preschool Services** are provided to students ages three to five (for students not in kindergarten) at local school sites. The type and frequency of special education services is determined for each student annually through the IEP process. As required to address LRE, preschool students have opportunities to participate with their nondisabled peers.

- **Specialized Services** are provided to students with low incidence disabilities on an itinerant basis or in a special class setting.
- **Services Provided by Another Local School District within the West End SELPA:** In such cases, the district of residence retains the responsibility to ensure that the students assigned to these programs receive a free appropriate public education. An *IntraSELPA Transfer* defines the reimbursement process for excess costs.
- **Services Provided Through an Arrangement with Another SELPA:** An *InterSELPA Transfer* defines the reimbursement process for excess costs associated with special education and related services for students when the IEP team has determined that the student requires educational services outside of the West End SELPA. The *InterSELPA Transfer* process is outlined in a Memorandum of Understanding.
- **Nonpublic, Nonsectarian School Services** are considered after all programs available within the district, West End SELPA or neighboring SELPAs have been considered and determined by the IEP team not to be appropriate to address the individual student's needs. Every effort is made to ensure that nonpublic school students are educated in the LRE and that transition back to the public school setting is considered annually. Each LEA shall monitor the progress of students enrolled in nonpublic schools by participation in the annual IEP development for the students, reviewing the master contract and individual services agreements, conducting evaluations as required, and facilitating transition from the nonpublic school to a less restrictive environment. All nonpublic schools in San Bernardino County participate in the Nonpublic School Quality Review process for instructional improvement every four years.
- **State Special Schools**, such as the California Schools for the Deaf and Blind, are available to students when local programs that meet the unique needs to students are not available and are recommended by the student's IEP team.
- **Extended School Year (ESY)** services are specified on the student's IEP when the IEP team determines that the student's unique needs require special education and related services in excess of the regular academic year. Students who require ESY usually have severe disabilities that are likely to continue indefinitely or for a prolonged period. Interruption of the student's educational programming may cause significant regression, when coupled with limited recoupment capacity that renders it impossible or unlikely that the student will attain the level of self-sufficiency and independence that would otherwise be expected in view of his/her disability.
- **Instruction in Settings Other than Classrooms** where specially designed instruction may occur include locations in the community such as day treatment or residential settings.
- **Instruction in Home, Hospitals, and in Other Institutions** to the extent required by federal law or regulations.

The Management Information Systems (MIS) adopted by the West End SELPA districts enable staff to carefully and continuously track timelines and the various services required by the individual students. Service logs are maintained and monitored by service providers and district administrators.

Least Restrictive Environment means that, to the maximum extent appropriate, students with disabilities, including individuals in public or private institutions or other care facilities, be educated with individuals who are nondisabled, including the provision of nonacademic and extracurricular services and activities. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR 300.107, 300.114, 300.117; Education Code 56040.1)

Special Education means specially designed instruction, provided at no cost to the parent/guardian, to meet the unique needs of individuals with disabilities including a full continuum of program options including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education to meet the educational and service needs in the least restrictive environment. (Education Code 56300, 56301)

Special education may include each of the following if the services otherwise meet the definition in the above paragraph: (Education Code 56031)

1. Speech/language pathology services, or any other related service, pursuant to Education Code 56363, if the service is considered special education rather than a related service under state standards
2. Travel Training
3. Career technical education
4. Transition services for students with disabilities in accordance with 34 CFR 300.43 if provided as specially designed instruction, or a related service, if required to assist a student with disabilities to benefit from special education

Specially designed instruction means adapting the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the student to the general curriculum, so that the student can meet the educational standards that apply to all students in the district. (34 CFR 300.39)

Surrogate parent means an individual assigned to act as a surrogate for the parent/guardian. The surrogate may represent an individual with disabilities in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in other matters relating to the provision of FAPE to the individual with disability. (34 CFR 300.519; Education Code 56050)

Annual Review of Special Education Services Options

Annually, the West End SELPA shall review its service provision options and revise them as necessary to reflect current Service Category Descriptions as specified in CASEMIS.

Procedures for Monitoring the Provision of Services

Every student with a disability is assigned a case manager through the IEP process. In most instances, the special education teacher at the school site is assigned as the case manager. When students are assigned

to programs outside the LEA, the Special Education Director assigns a case manager. That case manager will oversee the IEP in the alternative setting and ensure that services are provided consistent with the IEP. The case manager will also work closely with the home school site to transition the student back into the district of residence successfully.

LEA Responsibilities

The LEAs of the West End SELPA shall monitor all special education students who are the educational responsibility of the LEA including students with disabilities in alternative and nonpublic schools and students who have been suspended or expelled. Procedures to monitor compliance will include, but not be limited to:

- Development and implementation of local policies and procedures with applicable state and federal laws;
- Conduct regular staff meetings with special education staff;
- Provide training for administrators and other school staff/employees;
- School site and classroom visits;
- Review of IEPs;
- Review of/address parental comments or complaints;
- Review of LEA's State Performance Plan Indicators (SPPI);
- Review of LEA's CASEMIS data/reports;
- Review and implementation of findings from previous Special Education Self Reviews (SESR);
- Review of district-level AYP and API reports; and
- Review of selected evaluation reports.

All LEAs will provide data to the California Department of Education (CDE) that may be required by regulations. In addition, the LEAs will comply with the requirement of the State Performance Plan Indicators (SPPI) developed by the CDE and provide data as required by the Department.

SELPA Responsibilities

The West End SELPA will monitor the LEAs of the West End SELPA for compliance with state and federal laws and implementation of the Local Plan. The procedures utilized may include, but not be limited to:

- Develop policies and procedures in accordance with applicable state and federal laws;
- Review of Annual Budget Plan;
- Review of the Annual Service Delivery Plan;
- Review of the West End SELPA's LEAs' State Performance Plan Indicators (SPPI);
- Review of pertinent CASEMIS data/reports
- Review of the West End SELPA's Funding Allocation Plan;
- Evaluation of services offered by the West End SELPA Office by LEA Directors;
- Results of state and LEA Special Education Self Reviews (SESR); and
- Consultation with LEA staff regarding allegations of noncompliance filed with CDE.

The SELPA will conduct proactive activities to achieve and maintain ongoing compliance with state and federal special education laws. These activities may include, but are not limited to:

- Meetings held by the West End SELPA Administrator and the Program Advisory Committee;
- Meetings with the Superintendents Council and the West End SELPA Administrator
- West End SELPA-sponsored trainings for staff members at all levels on related topics; and/or

- Technical assistance to LEAs from the West End SELPA Administrator and/r the West End SELPA Program Specialist.

In cases of substantial, prolonged noncompliance by an LEA, the West End SELPA Administrator may, but is not limited to:

- Conduct conferences with the LEA's Director of Special Education and/or the Superintendent;
- Notify the Superintendents Council and the San Bernardino County Office of Education of the substantial, prolonged noncompliance by an LEA;
- In conjunction with the Superintendents Council, notify the LEA's Board of Education concerning the extent of the problem and recommended steps to resolve the problems;
- Withhold special education funding until the noncompliance is addressed, if approved by the Superintendents Council; and/or
- Utilize the funding withheld to assist the LEA in obtaining program compliance.

Elements of the Local Plan

The local plan developed by the West End Special Education Local Plan Area (West End SELPA) shall include, but not be limited to, the following: (Education Code 56205, 56206)

1. Assurances that policies, procedures, and programs, consistent with state law, regulation, and policy, are in effect as specified in Education Code 56205 (a)(1-22) and in conformity with 20 USC 1412(a), 20 USC 1413(a)(1), and 34 CFR 300.201
2. An annual budget plan and annual service plan adopted at a public hearing held by the West End SELPA
3. A description of programs for early childhood special education from birth through five years of age
4. A description of the method by which members of the public, including parents/guardians of individuals with disabilities who are receiving services under the plan, may address questions or concerns pursuant to Education Code 56205
5. A description of a dispute resolution process
6. Verification that the plan has been reviewed by the community advisory committee in accordance with Education Code 56205
7. A description of the process being utilized to refer students for special education instruction pursuant to Education Code 56303
8. A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method for ensuring that all requirements of each student's IEP are being met

9. A description of how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve students in isolated sites and maximizes the opportunities to serve students in the least restrictive environment

The local plan, annual budget plan, and annual service plan shall be written in language that is understandable to the general public. (Education Code 56205)

Each entity providing special education shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to Education Code 56195.1 and 56195.7. (Education Code 56195.8)

Interagency Agreements

Other public agencies are also responsible for the provision of services to some students with disabilities and their families. West End SELPA participates with the other SELPAs in San Bernardino County and the San Bernardino County Office of Education to ensure that eligible special education students receive appropriate related services from designated agencies as specified in their IEPs. Interagency agreements outline how students access services and define service delivery, case management and fiscal responsibility. Interagency agreements are developed and maintained with the Inland Regional Center for developmental and behavioral services, and California Students' Services for medically necessary occupational and physical therapy. All interagency agreements are signed by the Chair of the Superintendents Council and monitored by West End SELPA Administrator and the LEA Superintendent/Designee. The LEA Superintendent/Designee shall monitor the statutory timelines to ensure that services are provided without delays and that services are delivered consistent with the interagency agreements. When another agency fails to provide the service in accordance with the IEP, the Superintendent/Designee shall ensure that the district provides the service and may claim reimbursement from the responsible agency in accordance with state law and the interagency agreement.

State Performance Plan Indicators

The West End SELPA and its member districts believe that all students need to meet high standards of academic knowledge and skills. In addition, they must have the ability to apply their skills to the workplace where they will be required to adapt to emerging technologies and changing societal needs. The West End SELPA and its member districts recognize that content and performance standards are necessary to clarify for students, parents/guardians, and staff what students are expected to know and be able to perform at each grade level and in each area of study. Students' goals on their individual IEPs shall be based on the state content standards whenever appropriate.

The West End SELPA and its member districts shall comply with the requirements of the State Performance Plan Indicators (SPPI) developed by the state and provide data as required by the state. A review of the LEA performance goals and indicators is made on at least an annual basis to determine priorities for program improvement.

Participation in Assessments

Students with disabilities are included in general state and district-wide assessment programs with appropriate accommodations and/or modifications, where necessary. Each student's IEP team shall determine, at least on an annual basis, the individual accommodations and/or modifications in the administration of state or district-wide assessments necessary to minimize the impact of the student's disability on test performance. If the IEP team determines that the child will not participate in a particular

state or district-wide assessment of student achievement, or part of the assessment, the IEP shall include a statement of how the child will be assessed.

Students with significant cognitive disabilities who cannot participate in the Smarter Balanced assessment, even with accommodations and/or modifications, should participate in the state alternate assessment system, called the California Alternate Assessment (CAA), in accordance with state guidelines, in order to meet assessment participation requirements. *The IEPs for students participating in the CAA shall include a statement why participation in a particular state or district-wide assessment and how the child will be assessed.*

Special Education Funding

Annually, the Program Advisory Committee (PAC) and Superintendents Council shall review the AB 602 Implementation Plan and make adjustments as required to provide equitable funding to support the provision of a free appropriate public education (FAPE) to all children with disabilities in the West End Special Education Local Plan Area (West End SELPA).

Supplementation of State and Federal Funds

The Local Education Agencies (LEA) provide assurances that funds received from Part B of the Individuals with Disabilities Education Act (IDEA) will be expended in accordance with the applicable provisions of the IDEA and will be used to supplement and not to supplant state, local (including property taxes), and other federal funds. LEAs may use up to 15% of the amount they receive under Part B for any fiscal year to develop and implement coordinated, early intervening services for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

Maintenance of Effort

The LEAs provide assurances that federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of children with disabilities except as provided in Federal law and regulations. Each LEA is individually responsible for meeting federal maintenance of effort requirements. On an annual basis, each LEA shall complete state required Maintenance of Effort Reports (SEMA and SEMB) and submit them to the Administrative Unit of review.

Under SEMB requirements, each LEA shall compare the projected budget to unaudited actual from the prior year. Each LEA shall be eligible to receive federal local assistance dollars for the current year once it has been determined that the West End SELPA is projected to spend at least the same or more in state and local funds than in the previous year. If the West End SELPA does not meet the budget to unaudited actual test (SEMB), then none of the LEAs shall receive federal funds.

Procedures for LEA Sanctions When SELPA Has Met SEMA Requirements

Effective 2006-2007, each LEA shall utilize the SACS Software (SEMAI) at the first and second interim reporting to compare actual budgeted expenditures from the previous year's actual expenditures to determine that no supplanting of state funds has occurred. If an individual LEA is unable to meet Maintenance of Effort, the member LEAs of the West End SELPA shall explore adjusting the allocation of federal funds. However, no LEA shall be required to accept additional federal funds in any given year. If a shift in federal funds is not feasible, the LEA shall file an appeal to the Superintendents' Council prior to the

recapture of funds. The Council shall review any pertinent information and determine what sanctions may be imposed and the redistribution of funds.

Procedures for LEA Sanctions When SELPA Has Not Met SEMA Requirements

Effective 2006-2007, each LEA shall utilize the SACS Software (SEMAI) at the first and second interim reporting to compare actual budgeted expenditures from the previous year's actual expenditures to determine that no supplanting of state funds has occurred. If an LEA is unable to meet Maintenance of Effort, the member LEAs of the West End SELPA shall explore adjusting the allocation of federal funds. However, no LEA shall be required to accept additional federal funds in any given year. The LEA may file an appeal to the California State Department of Education in accordance with state directives. If the West End SELPA is billed by the state for the amount the West End SELPA failed to spend from state and local funds to maintain its level of effort, the funds shall be deducted from the LEA who was unable to meet Maintenance of Effort and the funds will be allocated to other member LEAs on a dollar for dollar basis after agreement with the LEAs.

End of Year Expenditures

When the end-of-year expenditures are certified annually utilizing SACS codes, each West End SELPA member's total expenditures as indicated on the Maintenance of Effort report will be compared to the Total Entitlement for special education funds. If a district's entitlement exceeds the expenditures indicated on the prior year Maintenance of Effort Report, the use of these funds shall be approved by the West End SELPA governance structure. Funding designated for an LEA reserve account must not exceed 5% of the total allocation and must be designated for special education costs only in accordance with state and federal law. Any excess special education funding as of the end-of-year expenditures for the second year will be recaptured by the West End SELPA, subject to review by the Operations Committee and approval of the Superintendents Council, and reallocated to the remaining districts below the West End SELPA per ADA or state special disabilities average. If a district does not meet the annual Maintenance of Effort requirement, funds may be recaptured and distributed to other districts to meet this standard utilizing the same approval process.

Legal References:

- (cf. 3541.2 – Transportation for Students with Disabilities)
- (cf. 3542 – School Bus Drivers)
- (cf. 4112.23 – Special Education Staff)
- (cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))
- (cf. 6159 – Individualized Education Program)
- (cf. 6159.1 – Procedural Safeguards and Complaints for Special Education)
- (cf. 6159.2 – Nonpublic, Nonsectarian School and Agency Services for Special Education)
- (cf. 6164.4 – Identification and Evaluation of Individuals for Special Education)
- (cf. 6164.41 – Children with Disabilities Enrolled by Their Parents in Private School)
- (cf. 6164.6 – Identification and Education Under Section 504)

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

BP 0430.406

**CLASSIFICATION: PHILOSOPHY, GOALS, OBJECTIVES
AND COMPREHENSIVE PLANS**

**Adopted: 0/00/0000
Revised: 00/00/0000
First Reading: 2/20/2015
Second Reading: 3/20/15
Adopted: 4/24/15**

SUBJECT: PROGRAM TRANSFERS

Any LEA initiating a transfer of educational programs and services already in operation within the SELPA shall follow appropriate Education Codes. It is the responsibility of each member Local Education Agency (LEA) of the West End SELPA to follow the provisions set forth in education code as applied to this policy.

Pursuant to Education Code Section 56207(a):

No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan area has developed a plan for the transfer which addresses, at a minimum, all of the following:

- (1) Pupil needs.
- (2) The availability of the full continuum of services to affected pupils.
- (3) The functional continuation of the current individualized education programs of all affected pupils.
- (4) The provision of services in the least restrictive environment from which affected pupils can benefit.
- (5) The maintenance of all appropriate support services.
- (6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
- (7) The means through which parents and staff were represented in the planning process.

Legal References:

EDUCATION CODE

56205

56207

FEDERAL REFERENCES

20 USC §1412, 1412 (a)(2)

CFR 300.24

300.300 (a) (3)

300.340

300.351

CLASSIFICATION: PHILOSOPHY, GOALS, OBJECTIVES AND COMPREHENSIVE PLANS

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

SUBJECT: PROGRAM TRANSFER

Any LEA initiating a transfer of educational programs and services already in operation within the SELPA shall follow appropriate Education Codes. In the event an LEA desires to initiate program or services transfers, a transfer planning committee made up of three SELPA governance members chosen by their peers shall be designated to address, at a minimum, all of the following: pupil needs, the availability of the full continuum of services to affected pupils, the functional continuation of the current IEPs of all affected pupils, the provision of service in the least restrictive environment from which affected pupils can benefit, the maintenance of appropriate support services, the assurance that there will be compliance with federal and state laws and regulations as well as SELPA policies, and the means through which parents and staff were represented in the planning process.

Program Transfer Notification Timelines

| | |
|------------------|---|
| <i>September</i> | District provides notification to the SELPA Director of programs, which are being considered for transfer pursuant to EC 56207. |
| <i>October</i> | Consideration of program transfer by Program Transfer Committee, which will include three SELPA governance members. This committee will be responsible for determining if the program transfer conforms to the requirements of EC 56207. |
| <i>November</i> | District initiating transfer responds to questions from the Program and Finance Advisory Committees and the Superintendents' Council. |
| <i>December</i> | District provides official letter to the SELPA Director of their decision to proceed with the transfer or quit. District holds open meeting for parents/staff to provide input regarding the proposed transfer. Program Transfer Committee provides Program and Finance Advisory Committees with their findings, including a summary of input from parents and staff. |
| <i>January</i> | Program and Finance Advisory Committees report to the Superintendents' Council their recommendation regarding the program transfer. Special Education Division program transfer signed and submitted to California Department of Education if the Superintendents' Council approves transfer. |
| <i>February</i> | Necessary personnel actions initiated by districts affected by the program transfer. |

July

District begins operation of transferred program.

The day on which the transfer of programs will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the Superintendents' Council, unless the Superintendents' Council unanimously approves the transfer take effect on the first day of the first year following the date of receipt of notification.

The approved SELPA guidelines for program transfer will be followed by SELPA staff as well as all affected agencies. Alternate dispute resolution pursuant to Education Code 56205 (d) will be utilized if either sending or receiving agency disagrees with the proposed transfer. All costs associated with due process actions will be paid by the agency initiating the program or service transfer.

Legal References:
EDUCATION CODE
56205(d)
56207

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

BP 0430.5

CLASSIFICATION: Philosophy, Goals, Objectives, and Comprehensive Plans

Adopted:
Revised: 12/6/2005
First Reading: 3/18/16

SUBJECT: INTER / INTRA-SELPA TRANSFER AGREEMENTS

Second Reading: 4/22/16
Adopted: 4/22/16

The Superintendents' Council recognizes that circumstances exist that require local educational agencies (LEAs) to place children with disabilities in programs operated by other LEAs and/or SELPAs. Inter-SELPA/district agreements that outline responsibility and cost must be approved by both the student's district of residence and the district that operates the program. Such agreements may include other terms or conditions.

Placement of a student with a disability in a program operated by another LEA or SELPA must be done through the IEP process and parent consent must be obtained. Placement of a student with a disability in another district should only be offered if the unique special education needs of the student cannot be met in an educational program within the district of residence and programs offered within the district of residence must be considered first.

Legal References:

EDUCATION CODE

46600-46611

Inter-district attendance agreements

Purpose:

Intra-SELPA Transfer Agreements and Inter-SELPA Transfer agreements are intended to assist Local Education Agencies (LEAs) and SELPAs to (1) document provision of special education services to a student with a disability in a setting outside of the student's LEA and/or SELPA of residence and (2) to provide a mechanism to transfer funds if it is necessary. The Transfer Agreement is initiated when the Individualized Education Program (IEP) team, including a district office representative, determines that the special education needs that a student needs are not available within the LEA of Residence. It is not required when a LEA accepts a student based on parental request for inter-district transfer pursuant to an inter-district transfer agreement otherwise provided by law (e.g., Allen Bill, District of Choice, or Open Enrollment Act). The LEA that accepts the Transfer Agreement assumes responsibility for the provision of services, for reporting attendance, and for counting the pupil in CASEMIS.

Intra-SELPA Transfer Agreement

An Intra-SELPA Transfer Agreement is initiated by a West End SELPA member district for the transfer of a student with an IEP to a program operated by another LEA that is also a member of the West End SELPA.

- A. Although San Bernardino County Office of Education (SBCOE) is a separate LEA within the West End SELPA, it is not necessary for the LEA of residence to complete an Intra-SELPA agreement for each student served by SBCSS.
- B. If a LEA requests that another LEA within the SELPA be the service provide, an Intra-SELPA transfer agreement for each student served by the other LEA is required.
- C. A Memorandum of Understanding (MOU) may be developed between the two LEAs to clarify the specific responsibilities of each LEA beyond this Intra-SELPA Transfer Agreement.

Inter-SELPA Transfer Agreement

An Inter-SELPA Transfer Agreement is initiated under either of the following circumstances:

- A. For the transfer of a student with an IEP from a LEA that is not a member of the West End SELPA to a program operated by an LEA that is a member of the West End SELPA.
- B. When a LEA that is a member of the West End SELPA is seeking a transfer to a placement outside of the West End SELPA. In such circumstances, the LEA should contact the proposed receiving LEA to inquire about the procedures put in place by the SELPA serving that LEA.

Procedures

LEA of Residence (Sending LEA)

- A. District level Special Education Administrator discusses the case with the IEP team members to identify the student's needs and determine if they can or cannot be met within a LEA program options.
- B. Contact the proposed LEA of attendance (receiving LEA) to discuss the possible transfer agreement, potential costs and responsibilities, and IEP meeting dates/times.
- C. Send a completed transfer agreement form to the proposed LEA of attendance immediately following the IEP meeting. Keep a photocopy for tracking purposes until it is signed by the receiving LEA.
- D. A new Intra-SELPA or Inter-SELPA Transfer Agreement must be approved annually should the student continue to receive special education services from the other LEA.

LEA of Attendance (Receiving LEA)

- A. Review and approve or disapprove the proposed Intra-SELPA or Inter-SELPA Transfer Agreement.
- B. Retain a copy of the completed and signed Intra-SELPA or Inter-SELPA Transfer Agreement for and return the original copy to the LEA of Residence.
- C. Send a copy of the Intra-SELPA or Inter-SELPA form to the West End SELPA.

West End SELPA

- A. Maintain a master list of all Intra-SELPA and Inter-SELPA Transfer Agreement forms.

Responsibilities

- A. The LEA of Residence maintains responsibility for the offer of FAPE. The LEA of Attendance assumes full liability for assessing students on Intra-SELPA or Inter-SELPA Transfer Agreements and for complying with any and all procedural and substantive mandates associated with the provision of FAPE, except as provides in section B, below. The LEA of Residence must be notified and invited to each IEP meeting held for the student by the LEA of Attendance and must be notified and included in each IEP team decision.
- B. The LEA of Attendance maintains responsibility and assumes full liability for implementing the IEP, including the provision of services that comport with the IEP, as stated in the LEA of Residence offer of FAPE.
- C. After the student is enrolled in a program operated by the LEA of Attendance and the IEP team, including the LEA of Residence, determines that additional supports, services, and/or specialized equipment are needed to meet the needs of the student, the LEA of Residence will provide additional funding for the costs of these services and the Transfer Agreement shall be amended as needed.

Legal References:

EDUCATION CODE

| | |
|-------------|--|
| 46600-46611 | Inter-district attendance agreements |
| 48204 | Residency requirements for school attendance |
| 48300 | Districts of choice |
| 48350-48361 | Open enrollment Act |
| 48980 | Notice at beginning of term |

WEST END SPECIAL EDUCATION LOCAL PLAN AREA**BP 3515.2****CLASSIFICATION: BUSINESS AND NONINSTRUCTIONAL PROCESSES****Adopted: 6/98
Revised: 2/2015
First Reading: 3/20/15
Second Reading: 4/24/15
Adopted: 5/29/15****SUBJECT: DISRUPTIONS**

The West End SELPA and its member districts are committed to providing a safe environment for district students, staff, and others while they are on district property, property of San Bernardino County Superintendent of Schools or engaged in school activities.

The Superintendent of the San Bernardino County Superintendent of Schools or of a WESELPA district or his/her designee shall remove any individual who, by his/her presence or action, disrupts or threatens to disrupt normal district or West End SELPA operations, threatens the health or safety of anyone on district property, or causes or threatens to cause damage to district property or to any property on school or West End SELPA premises.

Any employee who believes that a disruption may occur shall immediately contact the principal, site administrator or designee. The principal or designee shall notify law enforcement in accordance with Education Code 48902 and 20 USC 7151 and in other situations, as appropriate.

All West End SELPA staff members will treat parents and other members of the public with respect, and will expect the same in return. The West End SELPA is committed to maintaining orderly educational and administrative processes in keeping its offices free from disruptions and preventing unauthorized persons from entering its facilities.

This policy is developed to promote mutual respect, civility and orderly conduct among West End SELPA employees, parents, students and the public. This policy is not intended to deprive any person of their right to freedom of expression, but only to maintain, to the extent possible and reasonable, a safe, harassment-free environment for all individuals who enter the West End SELPA facilities. West End SELPA encourages positive communication, and discourages volatile, hostile or aggressive actions. The West End SELPA seeks public cooperation with this endeavor.

Legal References:**EDUCATION CODE**

- 32210 Willful disturbance of public school or meeting, misdemeanor
- 32211 Threatened disruption or interference with classes; misdemeanor
- 35160 Authority of governing boards
- 44810 Willful interference with classroom conduct
- 44811 Disruption of classwork or extracurricular activities
- 48902 Notification of law enforcement authorities
- 51512 Prohibited use of electronic listening or recording device

PENAL CODE

243.5 Assault or battery on school property

415.5 Disturbance of peace of school

626-626.11 Schools, crimes, especially:

626.7 Failure to leave campus or facility; wrongful return; penalties; notice; exceptions

627-627.10 Access to school premises

626.8 Disruptive presence at schools

626.81 Misdemeanor for registered sex offender to come onto school grounds

626.85 Misdemeanor for specified drug offender presence on school grounds

626.9 Gun Free School Zone Act

653b Loitering about schools or public places

12556 Imitation firearms

UNITED STATES CODE, TITLE 20

7151 Gun-Free Schools Act

COURT DECISIONS

Reeves v. Rocklin Unified School District, (2003) 109 Cal.App.4th 652

In Re Joseph F., (2000) 85 Cal.App.4th 975

In Re Jimi A., (1989) 209 Cal.App.3d 482

In Re Oscar R., (1984) 161 Cal. App.3d 770

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 58 (1996)

MANAGEMENT RESOURCES:

CSBA PUBLICATIONS

911! A Manual for Schools and the Media During a Campus Crisis, 2001

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Practical Information on Crisis Planning: A Guide for Schools and Communities, May 2003

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>

U.S. Department of Education, Emergency Planning: <http://www.ed.gov/admins/lead/safety/emergencyplan>

The West End SELPA is committed to maintaining orderly educational and administrative processes in keeping its premises free from disruptions and preventing unauthorized persons from entering its facilities.

This accompanying Administrative Regulation is developed to promote mutual respect, civility and orderly conduct among West End SELPA employees, parents, students and the public. This Administrative Regulation is not intended to deprive any person of their right to freedom of expression, but only to maintain, to the extent possible and reasonable, a safe, harassment-free environment for all individuals who enter the West End SELPA facilities. West End SELPA encourages positive communication, and discourages volatile, hostile or aggressive actions. The West End SELPA seeks public cooperation with this endeavor.

Disruptions

1. Any individual who disrupts or threatens to disrupt West End SELPA operations; threatens the health or safety of West End SELPA staff; willfully causes property damage; uses loud and/or offensive language which could provoke a violent reaction; or who has otherwise established a continued pattern of unauthorized entry on the grounds of West End SELPA, facilities or those of its member school districts, will be directed to leave West End SELPA property promptly by West End SELPA administrative staff and shall not be allowed to return for at least 48 hours (EC 32211).
2. If any member of the public uses obscenities or speaks in a demanding, loud, insulting and/or demeaning manner while on West End SELPA premises, the West End SELPA administrator or employee to whom the remarks are directed will calmly and politely admonish the speaker to communicate in a civil manner.

If corrective action is not taken by the abusing party, the West End SELPA employee will verbally notify the abusing party that the meeting, conference or telephone conversation is terminated, and if the meeting or conference is on West End SELPA premises, the offending person will be directed to leave promptly.

3. When an individual is directed to leave under the circumstances discussed in Section 1 or 2 above, the West End SELPA administrator or designee shall inform the person that he/she will be guilty of a misdemeanor in accordance with California Education Code Sections 32211 and Penal Code Sections 626.6 and 626.8, if he/she reenters any West End SELPA facilities within seven (7) days after being directed to leave.

If an individual refuses to leave upon request or returns before the applicable period of time, the West End SELPA administrator or designee may notify law enforcement officials. An Incident Report, attached, shall be completed for any such situations.

Safety and Security

4. The West End Program Administrator or designee will ensure that a safety and/or crisis intervention techniques program is provided to staff in order to raise awareness on how to deal with these situations if and when they occur.
5. When violence is directed against a West End SELPA employee, the employee shall promptly report the incident to their supervisor and complete an Incident Report. All West End SELPA employees, supervisors and administrators should complete an Incident Report and report to law enforcement, any attack, assault or threat made against them on West End SELPA premises or at West End SELPA sponsored activities (Penal Code Section 243.5).

Documentation

6. When it is determined by staff that a member of the public is in the process of violating the provisions of this policy, an effort should be made by staff to provide a written copy of this policy to staff involved or who witnessed the incident, including applicable Code provisions, at the time of occurrence. The employee will immediately notify his/her supervisor and provide a written Incident Report.

Appeal Procedure

Any person who is asked to leave a school building or grounds may appeal to the Superintendent or designee. This appeal shall be made no later than the second school day after the person has departed from the school building or grounds. After reviewing the matter with the principal or designee and the person making the appeal, the Superintendent or designee shall render his/her decision within 24 hours after the appeal is made, and this decision shall be binding. (Education Code 32211)

The decision of the Superintendent or designee may be appealed to the Governing Board. Such an appeal shall be made no later than the second school day after the Superintendent or designee has rendered his/her decision. The Board shall consider and decide the appeal at its next scheduled regular or adjourned regular public meeting. The Board's decision shall be final. (Education Code 32211)

Legal References:

EDUCATION CODE

32211 Disturbing School

44810 Willfull Interference

PENAL CODE

243.5 Arrest on School Grounds

415.5 Fighting on School Grounds

626.6 Refusal to Leave School Grounds

626.7

626.8 Disruptive Presence at School

626.85

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

INCIDENT REPORT

Name of Staff: _____

Today's Date: _____ Time of Incident: _____

Location of Incident: _____

Did you feel your well-being or physical safety was threatened? Yes _____ No _____

Were there any witnesses to this incident? Yes _____ No _____

Name of Witnesses: _____

Were the police contacted? Yes _____ No _____

Describe what happened: (If you need additional space, use the back of this sheet)

Signature of Person Completing the Form

CLASSIFICATION: BUSINESS AND NONINSTRUCTIONAL
OPERATIONS

SUBJECT: Alternative Dispute Resolution

Adopted: New
Revised: 00/00/00
First Reading: 12/11/15
Second Reading: 1/22/16
Adopted: 1/22/16

Alternative Dispute Resolution Policy

Alternative Dispute Resolution (ADR) is a process for resolving conflicts, one that respects the dignity of individuals while creating mutually satisfying solutions. ADR uses communication, collaboration, negotiation and mediation to produce an agreement that meets the interests of the parties involved, before disagreements become disputes.

It is the goal of the West End SELPA to meet the needs of all students and involve their parents in planning and decision making. When a disagreement or conflict exists, it is to the advantage of all parties to resolve the dispute at the level of procedure and the in the timeliest manner. West End SELPA is committed to provision of support to the LEAs in the prevention and early resolution of disagreements involving assessment, identification, placement, and services to Individuals with Exceptional Needs.

Through the West End SELPA Alternative Resolution Program, parents are supported at every stage of the IEP process and have access to a variety of solutions which allow the parties directly involved in the dispute the opportunity to create a mutually beneficial, long lasting agreement. In addition to the cost and time savings, relationships between parent and district are maintained or even enhanced. The use of ADR is strictly voluntary and is in no way intended to impede the IEP process.

Procedural Safeguards: Procedural safeguards are provided by federal and state law to protect the rights of pupils and parents in the area of special education. The protections specifically identify the process for parent and pupil participation in the educational process and dispute resolution. (20 *USC* 1415[d]; 34 *CFR* 300.504; *EC* 56301[d] [2], *EC* 56321, and 56341.1[g] [1])

The intent of the West End SELPA and member LEAs is to assure that federal and state laws and regulations to individuals with exceptional needs are complied with and that parents and students are informed of the rights under these laws.

CLASSIFICATION: BUSINESS AND NONINSTRUCTIONAL
OPERATIONS

SUBJECT: Alternative Dispute Resolution

Adopted: New
Revised: 00/00/00
First Reading: 12/11/15
Second Reading: 1/22/16
Adopted: 1/22/16

Special Education Alternative Dispute Resolution Administrative Regulation

Introduction: All disputes began as disagreements and are a natural part of a dynamic, complex system of providing education services for students with exceptional needs. It is the goal of the West End SELPA to provide opportunity for these disagreements to be resolved at the lowest level of intervention possible while respecting the dignity of all parties in the process of developing mutually agreed upon solutions to difficult issues.

Parents are encouraged to collaborate and seek resolution first at the school level. Disagreements may often be resolved through open dialogue among the IEP team, including the school administrator and the LEA special education administrator. Engaging the ADR process is never intended to impede the IEP process and is voluntary.

Components of the Alternative Dispute Resolution (ADR) Program

Informational Pamphlets: A pamphlet describing the ADR program, the continuum of services and process will be offered to every parent of a child with a disability in the West End SELPA at IEP meetings, when a new student enters the special education system, and as requested. These pamphlets describe the ADR program components and are included with the Notice of Procedural Safeguards. Additional pamphlets are available that describe the various components of the ADR program in greater detail.

Informal meetings: When a concern surfaces around any special education student, one method of resolution may be an informal meeting between the parent and their child's teacher. If the results of the meeting are not satisfactory, the site administrator, district special education administrator, or both may be invited to meet with the parent(s). A parent may be accompanied by a person who can help support and inform the parent(s) as to their rights, responsibilities, and the ADR process.

IEP meetings: An IEP meeting may be held to clearly identify areas of concern and to attempt to reach solutions with the IEP team. As stated in the law, parents or educational staff may request an IEP at any time. Another option is an IEP facilitated by a West End SELPA program specialist or a West End SELPA ADR facilitator.

Program Specialists: At any time during the dispute process, parents and/or school staff may request a West End SELPA Program Specialist to review programmatic issues. Program Specialists are knowledgeable of the variety of programs and services in special education and are charged with supporting the operation of special education programs throughout the West End SELPA. The Program Specialists recommendations may be brought to the IEP team in an attempt to resolve the concerns. In

addition, in coordination with the IEP team, a program specialist can provide technical support, IEP facilitation, additional observation and data collection, as well as staff development training.

Facilitated IEP (FIEP) Meetings: If the IEP team cannot resolve a dispute, they have the option of ending the current meeting and reconvening the IEP meeting with a facilitator who is trained in facilitation. The ADR-trained facilitator may come from inside or outside the district and will be assigned by the coordinator. A facilitated IEP may be requested in anticipation of an IEP meeting where members sense potential conflict or relationships among team members have been strained.

Through the FIEP process, an IEP is developed by a collaborative team whose members share the responsibility for the meeting process and results and decision making is managed through the use of essential facilitation skills. The facilitator in this process guides the IEP team towards their objective and assists the team in building understanding and agreement.

The FIEP process allows teams to build strong, effective relationships as a means to reach consensus. The facilitator's role is to focus the content and process in how to best meet the needs of the child by using meeting structures that facilitate active listening, creativity, and reflection.

ADR Intake Coordinator: The ADR coordinator is responsible for alternative dispute resolution, staff development and community awareness activities in support of families and professionals. The intake coordinator will set the process in motion when referral is received in writing or by phone. The coordinator will recommend that the caller contact the other party concerning the disagreement if the caller hasn't already done so. The ADR coordinator works with the West End SELPA Alternative Services Unit staff to develop support that is least intensive but most likely to be an effective approach in resolving the dispute. While the dispute may be resolved by phone, it may also be necessary to convene an Alternative Solutions Meeting.

Alternative Solution Meetings (ASM): When an IEP team is in a dispute related to differences in opinion regarding assessment, eligibility, placement, and/or services, and collaborative relationships have been strained, an Alternative Solutions Meeting (ASM) may be utilized. Resolution of disputes is best achieved by those who know and work with the child, understand the child's needs, and are knowledgeable about programs and the IDEA. An ASM is an informal process that honors a family's right to request mediation or initiate Due Process proceedings.

The intake coordinator will record of the disposition of the case on the Solutions Team Intake Form. Within approximately two weeks of an ASM, an evaluative survey will be conducted with both parties. The West End SELPA Intake Coordinator will interview or send a written survey to both parties and retain the survey results for ongoing program evaluation. Data shall include date, name of district, name of person(s) assigned to case, type of issue, whether or not agreement was reached, and whether or not the case advances to state mediation or fair hearing. The ADR process and continuum of program options in no way supersede a parent's or district's right to due process.

California Department of Education Complaint Procedure: Complaints are allegations made on behalf of a student with special needs that the district has failed to comply with the law or implement the agreements in the student's IEP. The alleged violation must have occurred within one year prior to the date the complaint was received. A complaint to the state will result in an investigation by State Compliance Officers from the California Department of Education, Special Education Division, unless the district and

parents resolve the issues within ten days of receipt of the complaint. Parents and Districts are informed of the findings of the investigation in writing to include any required corrective action within 60 days of the date of the complaint filing.

Complaints may be made in writing or by phone to:

California Department of Education-Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814
Phone: 800-926-0648
Fax: 916-327-3704

Mediation/Administrative Hearing: Parents may seek resolution through mediation prior to filing a request for a due process hearing. The conference is an informal proceeding conducted in a non-adversarial manner to resolve issues related to the identification, assessment or educational placement of a child or to a Free and Appropriate Education (FAPE).

At the prehearing conference, the parent or the school district may be accompanied and advised by non-attorney representatives and may consult with an attorney prior to or following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting due process hearing.

All requests for a pre-hearing mediation conference shall be filed with the Office of Administrative Hearings (OAH). The party initiating a pre-hearing mediation conference by filing a written request with OAH shall be provide the other party to the mediation with a copy of the request at the same time the request is filed. The pre-hearing mediation conference shall be conducted within fifteen days of receipt by the OAH of the request for mediation and shall be completed within thirty days after receipt of the request for mediation unless both parties agree to extend the time. If resolution is reached, the parties shall execute a legally binding written agreement that sets forth the resolution. All discussions during the mediation process shall be confidential. All prehearing mediation conferences shall be scheduled in a timely manner and held at a time and place reasonably convenient to both parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for due process.

Due Process: Parents have the right to request an impartial due process hearing regarding the identification, assessment and educational placement of their child or the provision of FAPE. The request for due process hearing must be filed within two years from the date one knew, or should have known, about the alleged action that forms the basis of the due process complaint.

Nothing precludes a parent from access to the ADR process in an effort to resolve issues prior to a due process hearing. A resolution session is not required if the parent and school district agreed in writing to waive the meeting. If the school district has not resolved the due process hearing within 30 days, the due process hearing may occur. If a resolution is reached the parties shall execute a legally binding agreement.

To file a written request for a due process hearing, the parent or legal guardian needs to submit the following information:

- 1) Name of child;
- 2) Address of the residence of the child;

- 3) Name of the school the child is attending;
- 4) In the case of a homeless child, available contact information for the child and the name of the school the child is attending; and
- 5) A description of the nature of the problem, including facts relating to the problem and a proposed resolution of the problem(s).

Federal and state laws require that either party filing for a due process hearing must provide a copy of the written request to the other party.

Prior to filing for a due process hearing the school district shall be provided the opportunity to resolve the matter by convening a resolution session, which is a meeting between the parent(s) and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request.

Resolution sessions shall be convened within fifteen days of receiving notice of the parents' due process hearing request. The sessions shall include a representative on the school district who has decision-making authority and not include an attorney of the school district, unless the parent is accompanied by an attorney. The parent of the child may discuss the due process hearing issue and facts that form the basis of the due process hearing request.

A request for an administrative hearing of mediation with state-appointed officials is addressed to:

Office of Administrative Hearings
Attention: Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
Phone: 916-263-0880
Fax: 916-263-0890

Legal References:

(34 *CFR* 300.151–153; 5 *CCR* 4600)
(*EC* 56500.3 and 56503)
(20 *USC* 1415[b][6]; 34 *CFR* 300.507; *EC* 56501 and 56505[1])

CLASSIFICATION: INSTRUCTION

SUBJECT: TRANSPORTATION FOR STUDENTS WITH DISABILITIES

Adopted: 5/2003

Revised: 8/2015

First Reading: 12/11/15

Second Reading: 1/22/16

Adopted: 1/22/16

The Governing Board shall ensure that appropriate transportation services are provided for students with disabilities as specified in their individualized education program (IEP) or accommodation plan. The district shall make home-to-school transportation available for students at no cost to parents/guardians as specified in the student's IEP.

The Superintendent or designee shall establish criteria and procedures for determining the most appropriate mode of transportation for an individual student based on identified needs as determined in the IEP or accommodation plan. The Superintendent or designee shall establish procedures to ensure compatibility between mobile seating devices and bus securement systems.

When authorizing special transportation for students with disabilities within the West End SELPA, the individualized education program (IEP) team or Section 504 committee shall consider, at a minimum, all of the following:

1. The student's safety and health needs
2. The extent to which transportation arrangements may help the student develop independent mobility skills
3. The student's difficulty in using regular transportation services
4. The coordination of regular and special education services

Students with disabilities who do not meet any of the above criteria may use regular home-to-school transportation.

The Superintendent or designee shall arrange transportation schedules so that students with disabilities do not spend an excessive amount of time on buses compared to other students. Arrivals and departures shall not reduce the length of the school day for these students except as may be prescribed on an individual basis.

When a student with a disability is excluded from school bus transportation due to expulsion, the district shall provide alternative transportation at no cost to the student or parent/guardian. (Education Code 48915.5)

Students transported in a school bus or in a student activity bus shall be under the authority of, and responsible directly to, the driver of the bus. The driver shall be held responsible for the orderly conduct of the students while they are on the bus or being escorted across a street, highway, or road. (5 CCR 14103)

A bus driver shall have the authority to discontinue the operation of a school bus whenever he/she determines that it is unsafe to continue.

Administrative regulations related to bus driver authority shall be made available to parents/guardians, students, teachers and other interested parties. (5 CCR 14103)

Legal References:

EDUCATION CODE:

| | |
|---------------|---|
| 39807.5 | Payment of transportation cost |
| 39830-39842 | School buses |
| 39839 | Guide dogs, signal dogs, and service dogs on bus |
| 40080-40090.5 | Training required obtaining or renewing bus driver certificate |
| 41850-41854 | Allowances for transportation |
| 45125.1 | Criminal background checks for contractors |
| 48300-48315 | Alternative inter-district attendance program |
| 48915.5 | Expulsion of students with exceptional needs |
| 56195.8 | Adoption of policies/Training in installation of mobile seating devices |
| 56327 | Assessment for special education and related services |
| 56345 | Individualized education program/Elements of the IEP |
| 56366 | Nonpublic, nonsectarian schools or agencies |
| 56366.1 | Waiver of requirements under section 56365 and 56366 |

PENAL CODE

| | |
|-------|-----------------------------------|
| 241.3 | Assault against school bus driver |
| 243.3 | Battery against school bus driver |

VEHICLE CODE

| | |
|---------------|--|
| 1808.8 | Dismissal for safety-related cause |
| 2570-2575 | Transportation of students |
| 12517-12517.4 | Certification requirements |
| 12522 | First aid training for school bus drivers |
| 13376 | Driver certificates; revocation or suspension; sex offense prosecution |
| 22112 | School bus signals; roadway crossings |
| 25257 | School bus; flashing light signal system |
| 25257.2 | School bus used for transportation of developmentally disabled person |
| 34501.6 | School buses; reduced visibility |
| 34508.5 | Investigation of accidents |

CODE OF REGULATIONS, TITLE 5

| | |
|-------|--|
| 14103 | Authority of the driver |
| 14104 | School bus driver instructor |
| 15050 | Transfer of funds to child development fund and development center for handicapped pupils fund |
| 15243 | Physically handicapped minors |
| 15271 | Exclusion from report |

CODE OF REGULATIONS, TITLE 13

1200-1228 General provisions, school bus regulations
UNITED STATES CODE, TITLE 20
1400-1487 Individuals with Disabilities Education Act
UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act of 1973
CODE OF FEDERAL REGULATIONS, TITLE 34
104.4 Equal opportunity under the Rehabilitation Act of 1973, Section 504
CODE OF FEDERAL REGULATIONS, TITLE 49
571.222 Federal requirements for bus securement systems (Federal motor vehicle safety standard
#222)

Management Resources:

CDE MANAGEMENT ADVISORIES

0500.92 Implementation of Special Education Transportation Apportionment (#92-02)

CDE PROGRAM ADVISORIES

0609.95 School transportation fee exemption for handicapped children and pupils whose parents or guardians are indigent (LO: 2-95)

The Governing Board desires to provide for the safe and efficient transportation for students to and from school as necessary to ensure student access to the educational program, promote regular attendance and reduce tardiness. The Governing Board shall ensure that appropriate transportation services are provided for students with disabilities as specified in their individualized education program (IEP), in accordance with the federal Individuals with Disabilities Education Act, or Section 504 accommodation plan, in accordance with Section 504 of the federal Rehabilitation Act of 1973. The district shall make home-to-school transportation available for students at no cost to parents/guardians as specified in the student's IEP. The Superintendent or designee shall develop procedures to promote safety for students traveling on school buses. In order to provide appropriate and desirable transportation to all home-to-school passengers, vehicles are subject to video/audio surveillance. (Please refer to SBCSS policy 3541.3 regarding video/audio on school buses.)

Transportation of students to and from school, on field trips, on student activity trips or any other group activity under control of the County Superintendent of Schools Office shall be by school buses as defined in the Education Code, or a publicly licensed transportation or common carrier service.

The Superintendent or designee shall establish criteria and procedures for determining the most appropriate mode of transportation for an individual student based on identified needs as determined in the IEP or Section 504 accommodation plan. The Superintendent or designee shall establish procedures to ensure compatibility between mobile seating devices and bus securement systems.

No student shall be required to be transported for any reason without the written permission of the student's parent/guardian, except in emergency situations involving illness or injury to the student. (Education Code 35350)

If a student with a disability is excluded from school bus transportation for any reason, such as suspension, expulsion, conduct or other reasons, the district shall provide alternative transportation at no cost to the student or parent/guardian provided that transportation is specified in the student's IEP. Alternate transportation could be provided by contracting with a private carrier, by reimbursing mileage expenses to the parent/guardian who transports the student to and from school, or any other appropriate method. (Education Code 48915.5)

In lieu of providing transportation in whole or in part, the district may pay the student's parents/guardians either their actual and necessary expenses in transporting the student or the cost of the student's food and lodging at a place convenient to the school. In either case, the amount of the payment shall not exceed the cost that would be incurred by the district to provide for the transportation of the student to and from school. (Education Code 39806-39807)

When contracting with a nonpublic, nonsectarian school or agency to provide special education services, the Superintendent or designee shall ensure that the contract includes general administrative and financial agreements related to the provision of transportation services is specified in the student's IEP. (Education Code 56366)

Guide dogs, signal dogs and service dogs trained to provide assistance to persons with disabilities may be transported in a school bus when accompanied by a student with a disability, teacher with a disability, or a person training the dog. (Education Code 39839)

The Superintendent or designee shall arrange transportation schedules so that students with disabilities do not spend an excessive amount of time on buses compared to other students. Arrivals and departures shall not reduce the length of the school day for these students except as may be prescribed on an individual basis.

The Superintendent or designee shall ensure that the qualifications of bus drivers and related staff employed by the district, provide for the maintenance and operation of district-owned school buses and other equipment, and ensure adequate facilities for equipment storage and maintenance. School buses may be publicly or privately owned, but must be serviced and maintained as required by the Vehicle Code and regulations of the California Highway Patrol.

Student Conduct on Buses

1. General Regulations

At the beginning of the school year, parents will be informed of regulations and laws relating to pupil transportation in California, school policy, and what is expected of students who are transported in a school bus. Students must respect the authority of the bus driver. Administrative regulations related to bus driver authority shall be made available to parents/guardians, students, teachers and other interested parties. (5 CCR 14103)

A bus driver shall not require any pupil to leave the bus en route between home and school or other destination.

Each school will assign personnel to assist in the supervision of students loading or unloading at the school. School personnel are responsible for any assistance students may need arriving to or exiting from the bus doors. (Bus drivers and attendants are responsible for the students' actual entry and exit from the bus.)

Articles taken aboard a school bus will be attached to the wheelchair or given to the bus driver to keep while in transit. There may be exceptions on study trips; however, nothing should be placed in a position to obscure the driver's vision to the front, rear, or sides or to restrict access to emergency exits.

Bus drivers and teachers will confer with each other regarding students who are causing problems while riding on the bus. Bus drivers who feel they are not being supported by the teacher, or teachers, who have concerns about drivers should be encouraged to meet and discuss these

differences. If necessary, the principal and the Transportation Department should be asked for assistance to resolve these differences.

2. Student Conduct on School Bus

- a. Students transported in a school bus or in a student activity bus shall be under the authority of, and responsible directly to, the driver of the bus. The driver shall be held responsible for the orderly conduct of the students while they are on the bus or being escorted across a street, highway, or road. (5 CCR 14103)
- b. Students shall be seated prior to any school bus being put into motion and shall remain seated until the bus has come to a complete stop. Students shall refrain from any action that could distract the driver while the bus is in motion.
- c. Students who become a serious safety problem on the school bus may be removed from the bus and have riding privileges suspended for a period of time determined by the area director/principal in conjunction with the Transportation Department.

School Transportation

1. Passenger Safety

All drivers shall use appropriate safety restraint systems in accordance with the California Vehicle Code. In addition, drivers shall ensure that:

- a. A child that is under age 6 or under 60 pounds, unless exempted in accordance with Vehicle Code 27360 or 27363, is properly secured in a rear seat in an appropriate child passenger restraint system meeting federal safety standards; and
- b. All other passengers are properly secured in an appropriate passenger restraint system.
- c. A bus driver shall have the authority to discontinue the operation of a school bus whenever he/she determines that it is unsafe to continue.

2. Promptness

The pupil must be ready to board the bus at the time and place established by the Transportation Department. The driver must complete the route by the time school starts, so the driver will not be required to wait more than two minutes, thus making it essential that the student is ready to board the bus on its arrival. Due to the great distances some buses travel, the pick-up and return time may vary as much as 15 minutes.

3. Supervision

A parent/guardian must be present to assist the driver at the time of departure for school and upon return to the pupil's home. Transportation will provide the parent/guardian with a Release from

Responsibility form if someone other than the parent/guardian will provide this service or if the child will be left unsupervised.

- a. If an adult other than the parent or guardian is to provide this supervision, the parent/guardian shall inform the Transportation Department.
- b. Without adequate notice, the Transportation Department cannot re-route to receive a pupil or return a pupil to a destination other than his/her designated stop.
- c. Upon boarding the bus, drivers are instructed to receive from pupils or parents all objects intended for use at school.
- d. The student must be brought to the bus because the driver cannot leave the bus to receive a student.

4. Absence

- a. If a pupil needs to be absent from school, it is the responsibility of the parent or guardian to notify the Transportation Department before the scheduled pick-up time. The parent or guardian must notify the Transportation Department when transportation is to be resumed.
- b. Should a pupil become ill en route to or at school, the school will notify the parent or guardian. The school will notify the Transportation Department that the pupil has been taken home. Transportation will not be resumed until the parent or guardian has notified the Transportation Department that the pupil is ready to return to school.

5. Bus Behavior

- a. If, in the judgment of a bus driver, a pupil's behavior interferes with bus safety, the driver is authorized to take the necessary emergency steps and to report the incident to the teacher.
- b. If the pupil's behavior continues to be a safety hazard, continuance of the pupil's transportation service will be endangered.

Legal References:

EDUCATION CODE:

| | |
|---------------|--|
| 35330 | School field trips and excursions |
| 35350 | Parental permission for transportation |
| 39800-39801 | Transportation services |
| 39806-39807 | Alternate transportation |
| 39807.5 | Payment of transportation cost |
| 39830-39842 | School buses |
| 39839 | Guide dogs, signal dogs, and service dogs on bus |
| 40080-40090.5 | Training required obtaining or renewing bus driver certificate |
| 41850-41854 | Allowances for transportation |
| 45125.1 | Criminal background checks for contractors |
| 48300-48315 | Alternative inter-district attendance program |

48915.5 Expulsion of students with exceptional needs
 56195.8 Adoption of policies/Training in installation of mobile seating devices
 56327 Assessment for special education and related services
 56345 Individualized education program/Elements of the IEP
 56366 Nonpublic, nonsectarian schools or agencies
 56366.1 Waiver of requirements under section 56365 and 56366
 PENAL CODE
 241.3 Assault against school bus driver
 243.3 Battery against school bus driver
 VEHICLE CODE
 1808.8 Dismissal for safety-related cause
 2570-2575 Transportation of students
 12517-12517.4 Certification requirements
 12522 First aid training for school bus drivers
 13376 Driver certificates; revocation or suspension; sex offense prosecution
 22112 School bus signals; roadway crossings
 25257 School bus; flashing light signal system
 25257.2 School bus used for transportation of developmentally disabled person
 34501.6 School buses; reduced visibility
 34508.5 Investigation of accidents
 CODE OF REGULATIONS, TITLE 5
 14103 Authority of the driver
 14104 School bus driver instructor
 15050 Transfer of funds to child development fund and development center for handicapped pupils fund
 15243 Physically handicapped minors
 15271 Exclusion from report
 CODE OF REGULATIONS, TITLE 13
 1200-1228 General provisions, school bus regulations
 UNITED STATES CODE, TITLE 20
 1400-1487 Individuals with Disabilities Education Act
 UNITED STATES CODE, TITLE 29
 794 Section 504 of the Rehabilitation Act of 1973
 CODE OF FEDERAL REGULATIONS, TITLE 34
 104.4 Equal opportunity under the Rehabilitation Act of 1973, Section 504
 CODE OF FEDERAL REGULATIONS, TITLE 49
 571.222 Federal requirements for bus securement systems (Federal motor vehicle safety standard #222)

Management Resources:

CDE MANAGEMENT ADVISORIES

0500.92 Implementation of Special Education Transportation Apportionment (#92-02)

CDE PROGRAM ADVISORIES

0609.95 School transportation fee exemption for handicapped children and pupils whose parents or guardians are indigent (LO: 2-95)

CLASSIFICATION: PERSONNEL

Adopted: 9/08

Revised: 2/2015

SUBJECT: APPOINTMENT AND CONDITIONS OF
EMPLOYMENT: PERSONNEL QUALIFICATIONS

Second Reading: 3/20/15

Adopted: 4/24/15

It shall be the policy of the Local Education Agencies (LEAs) to ensure that personnel providing special education and related services meet the highly qualified requirements as defined under federal law, including that those personnel have the content knowledge and skills to serve children with disabilities. This policy shall not be construed to create a right of action on behalf of an individual student for the failure of a particular LEA staff person to be highly qualified or to prevent a parent from filing a State complaint with the California Department of Education (CDE) about staff qualifications.

Upon recommendation from the Superintendent or designee, the LEA Governing Board shall approve the appointment of all employees. The position and the salary classification shall be reported to the Board at a regular meeting. Individuals appointed to certificated staff for the provision of special education services shall meet the personnel requirements that apply to all certificated staff of the LEA. Other providers of related services whose professional standards are not addressed by certification (e.g., Occupational Therapists, Certified Nursing Assistants) shall meet the appropriate licensure requirements of the state. Qualified staff either employed by or contracted by the LEA or Special Education Local Plan Area (SELPA) shall provide all special education and related services.

Para-professionals who are appropriately trained and supervised in accordance with State Law may be used to assist in the provision of special education and related services to children with disabilities. Para-professionals who assist students in core curriculum areas shall meet NCLB requirements.

The 10 districts within the West End Special Education Region WESELPA make every effort to ensure that there is an adequate supply of qualified and adequately prepared special education, general education, and related services personnel.

The WESELPA local districts make every effort to identify early the personnel needs of each district. The local districts engage in the following procedures, as appropriate, to ensure that there is an adequate supply of qualified and adequately prepared special education, general education, and related services personnel:

- Work closely with the San Bernardino County Superintendent of Schools to attract qualified candidates for available positions,
- Advertise with local newspapers for available positions,
- Maintain local district websites with position announcements, and
- Advertise with state and private universities for available positions.

Local districts also provide in-service trainings and other support to new personnel to ensure adequately prepared special education, general education, and related services personnel.

Legal References:

EDUCATION CODE

33590 (n)(o)

35161 Powers and Duties

56058-56059

56205(a)(12)(E)(13)

56320 Assessment

CODE OF REGULATIONS, TITLE 5

3001(j) Credential

3001(r) License

3001(y) Qualified

300.136 Personnel Standards

300.156

UNITED STATES CODE, TITLE 20

1412 (a)(14) Personnel Qualifications

CODE OF FEDERAL REGULATIONS, TITLE 34

300.23 Qualified Personnel

CLASSIFICATION: PERSONNEL

SUBJECT: Qualifications/Assignment of Special Education Teachers

Adopted: 5/03

Revised: 2/2015

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization that specifically authorizes him/her to teach students with that primary disability within the program placement recommended in the students' individualized education program (IEP). (5 CCR 80046.5, 80048.7)

Special education teachers who teach core academic subjects shall possess the qualifications required by the No Child Left Behind Act. (20 USC 1401, 6319, 7801; 34 CFR 200.55-200.57, 300.18; 5 CCR 6100-6126). All special education teachers shall provide Specialized Academic Instruction (SAI) to students with disabilities as specified in their IEPs. SAI means adapting, as appropriate to the needs of an each child with a disability, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability; and to ensure access of the child to the general curriculum, so that the child can meet the educational standards of the district that apply to all children.

The Superintendent or designee may request the Commission on Teacher Credentialing (CTC) to issue a special education limited assignment teaching permit to authorize a qualified special education teacher, with his/her written consent, to serve outside the specialty area of his/her credential. In so doing, the district shall submit a Declaration of Need for Fully Qualified Educators that satisfies the requirements of 5 CCR 80026. If the teacher has not yet obtained permanent status, the Superintendent or designee shall assign one or more experienced educators in the special education subject area(s) of the permit, who have at least three years of full-time teaching experience in each of the subject area(s) of the permit, to provide guidance and assistance to the permit holder. (5 CCR 80027.1)

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization that specifically authorizes him/her to teach students with that primary disability within the program placement recommended in the students' individualized education programs (IEP). (5 CCR 80046.5, 80048.7)

The district may employ a person with an appropriate district internship credential to provide classroom instruction to students with disabilities, provided he/she has met the subject matter requirement specified in Education Code 44325 and receives guidance, supervision, and professional development through an established [district](#) internship program. (Education Code 44325, 44326, 44830.3)

The district may employ certificated resource specialists to provide services for students with disabilities which shall include, but not be limited to: (Education Code 56362)

1. Providing instruction and services to students whose needs have been identified in an IEP and who are assigned to regular classroom teachers for a majority of the school day;

A student shall not be enrolled in a resource specialist program for a majority of a school day without approval by the student's IEP team.

2. Providing information and assistance to students with disabilities and their parents/guardians;
3. Providing consultation, resource information, and material regarding students with disabilities to their parents/guardians and regular education staff members;
4. Coordinating special education services with the regular school programs for each student with disabilities enrolled in the resource specialist program;
5. Monitoring student progress on a regular basis, participating in the review and revision of IEPs as appropriate, and referring students who do not demonstrate sufficient progress to the IEP team;
6. At the secondary school level, emphasizing academic achievement, career and vocational development, and preparation for adult life;

Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes. (Education Code 56362)

The district's resource specialist program shall be under the direction of a resource specialist who possesses the qualifications specified in Education Code 56362 and 5 CCR 80070.8. (Education Code 56362)

Teachers who receive an added authorization may be assigned to serve students in the broad specialty area pursuant to their credential and in the specific area of the added authorization. special education credential holders may obtain added authorizations in the following areas: autism spectrum disorders, deaf-blind, emotional disturbance, orthopedically impaired, other health impaired, and traumatic brain injury. (5 CCR 80048.7) If an individual already holds a credential authorization to provide instructional services in an added authorization specialty area, the duplicative added authorization in special education cannot be issued.

The Superintendent or designee may employ and assign a teacher to provide instruction to students ages 3-4 who are diagnosed with autism if the teacher holds a valid preliminary or Level I or a clear or Level II education specialist credential, is authorized to provide instruction to students with autism.

The Superintendent or designee shall ensure that caseloads for special education teachers are within the maximum caseloads established by law, collective bargaining agreement, and/or the comprehensive plan of the Special Education Local Plan Area (SELPA) in which the district participates.

No resource specialist shall have a caseload which exceeds 28 students. As necessary and with the agreement of the resource specialist, the Board may request a waiver from the State Board of Education to increase the caseload to no more than 32 students, provided that an individual resource specialist does not have a caseload exceeding 28 students for more than two school years and has the assistance of an instructional aide at least five hours daily during the period of the waiver. (Education Code 56362, 56362.1; 5 CCR 3100)

The SELPA average caseload for language, speech, and hearing specialist shall not exceed 55 cases unless otherwise specified and reasons stated in the SELPA plan. The maximum caseload for speech and language specialists exclusively serving children with disabilities age 3-5 shall not exceed 40. (Education Code 56363.3, 56441.7)

Legal References:

EDUCATION CODE

- 44250-44279 Credentials, especially:
- 44256 Credential types, specialist instruction
- 44258.9 Assignment monitoring

44265-44265.9 Special education credentials
 44325-44328 District interns
 44830.3 District interns, supervision and professional development
 56000-56865 Special education, especially:
 56195.8 Adoption of policies
 56361 Program options
 56362-56362.5 Resource specialist program
 56363.3 Maximum caseload; language, speech, and hearing specialists
 56441.7 Maximum caseload; language, speech, and hearing specialists serving children ages 3-5
 CODE OF REGULATIONS, TITLE 5
 3051.1 Language, speech and hearing development and remediation; appropriate credential
 3100 Waivers of maximum caseload for resource specialists
 6100-6126 Teacher qualifications, No Child Left Behind Act
 80021 Short-term staffing permit
 80021.1 Provisional internship permit
 80025.4 Substitute teaching, special education
 80026 Declaration of need for fully qualified educators
 80027.1 Special education limited assignment teaching permit
 80046.1 Adapted physical education specialist
 80046.5 Credential holders authorized to serve students with disabilities
 80047-80047.9 Credentials to provide instructional services to students with disabilities
 80048-80048.9.3 Credential requirements and authorizations
 80070.1-80070.8 Resource specialist certificate of competence
 UNITED STATES CODE, TITLE 20
 1400-1482 Individuals with Disabilities Education Act, especially:
 1401 Definition of highly qualified special education teacher
 6319 Highly qualified teachers
 7801 Definitions, highly qualified teacher
 CODE OF FEDERAL REGULATIONS, TITLE 34
 200.55-200.57 Highly qualified teachers
 300.8 Definition of autism
 300.18 Highly qualified special education teachers
 300.156 Special education personnel requirements

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Handbook on Developing and Implementing Early Childhood Special Education Programs and Services, 2001

COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

10-15 Alternative Route to Provide Special Education Services to Students with Autism, September 7, 2010

10-13 Approval of Title 5 Regulations Pertaining to Special Education Services Credentials, July 21, 2010

10-12 Approval of Title 5 Regulations Pertaining to Special Education Teaching Credentials Requirements, July 21, 2010

09-16 Approval of Additions to Title 5 Regulations Pertaining to Added Authorizations in Special Education, July 23, 2009

09-15 Approval of Amendments to Title 5 Regulations Pertaining to General and Special Education Limited Assignment Teaching Permits, July 23, 2009

08-13 Alternative Route to Provide Special Education Services to Students with Autism Ages Three and 4, October 9, 2008

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

Education Specialist Teaching and Other Related Services Credential Program Standards, September 2010

WEB SITES

California Association of Resource Specialists and Special Education Teachers: <http://www.carsplus.org>
California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>
California Speech-Language-Hearing Association: <http://www.csha.org>
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

CLASSIFICATION: PERSONNEL

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

SUBJECT: STAFF DEVELOPMENT

The district's staff development program shall assist educational staff in developing knowledge and skills to effectively ensure access and progress in the general curriculum for students with disabilities. Training shall be provided to administrators, general education teachers, special education teachers, support staff, and paraprofessionals.

The Superintendent or designee may, in conjunction with individual teachers and interns, develop an individualized program of professional growth which contributes to competence, performance, and effectiveness in teaching and classroom assignments and, as necessary, assists them in meeting state or federal requirements to be fully qualified for their positions.

The district's staff evaluation process may be used to recommend additional staff development for individual employees.

The Superintendent or designee shall involve teachers, site and district administrators, and others, as appropriate, in the development of the district's staff development program. He/she shall ensure that the district's staff development program is aligned with district priorities for student achievement, school improvement objectives, and school plans.

The Board may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

The Superintendent or designee shall provide a means for continual evaluation of the benefit of staff development activities to both staff and students and shall regularly report to the Board regarding the effectiveness of the staff development program. Based on the Superintendent's report, the Board may revise the program as necessary to ensure that the staff development program supports the district's priorities for student achievement.

Legal References:

GOVERNMENT CODE

3543.2

EDUCATION CODE

41520-41522

41530-41533

44032

44259.5

44277

44279.1-44279.7

44325-44328

44450-44468

44560-44562

44570-44578

44580-44591

44630-44643

44700-44705

44735

45028

48980

52055.600-52055.662

56240-56245

99200-99206

99220-99227

99230-99242

CODE OF REGULATIONS, TITLE 5

11980-11985.6 Mathematics and Reading Professional Development Program

13025-13044 Professional development and program improvement

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

6601-6702 Preparing, Training and Recruiting High Quality Teachers and Principals

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990) PERB Order No. 804, 14 PERC P21, 085

CLASSIFICATION: PERSONNEL

SUBJECT: STAFF DEVELOPMENT

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

The West End SELPA and its 10 member districts believe that staff members must be continuously learning and improving their skills. The LEA Superintendent or designee, in conjunction with the SELPA, shall develop a program of ongoing professional development that includes opportunities for general and special education teachers and service providers, administrators, paraprofessionals, and other classified staff, to enhance their knowledge of the needs of students with disabilities. The program may include but is not limited to:

1. Mastery of discipline-based knowledge, including academic content in the core curriculum and academic standards
2. Use of effective, subject-specific teaching methods, strategies, and skills
3. Use of accommodations and modifications based on the individual students' IEPs
4. Strategies to implement differential instruction
5. Use of technologies to enhance instruction
6. Sensitivity to and ability to meet the needs of diverse student populations, including, but not limited to, students with disabilities who are members of various racial and ethnic groups, English language learners, economically disadvantaged students, gifted and talented students, and at-risk students
7. Understanding of how academic and career technical instruction can be integrated and implemented to increase student learning
8. Knowledge of strategies that enable parents/guardians to participate fully and effectively in their children's education
9. Effective classroom management skills and strategies for establishing a climate that promotes respect, fairness, and discipline, including conflict resolution and intolerance and hatred prevention
10. Positive behavior interventions to address individual students needs
11. Ability to relate to students, understand their various stages of growth and development, and motivate them to learn
12. Ability to interpret and use data and assessment results to guide instruction
13. Knowledge of topics related to student health, safety, and welfare
14. Knowledge of topics related to employee health, safety, and security

The LEA Superintendent or designee shall ensure that the district meets its obligations related to the professional growth of individual probationary and permanent teachers. The LEA Board and the SELPA may budget funds for actual and reasonable expenses incurred by staff who participate in staff development activities.

The West End SELPA sends one or more representatives, to the Inland Empire Region 10 Coordinating Council meetings for the purposes of assessing the staff development needs and providing coordinated regional trainings.

The school districts in the West End SELPA participate in the California Reading Initiative. Special education personnel are an integral part of each local district's implementation of the California Reading Initiative. Special education personnel participate in staff development opportunities in the area of literacy sponsored at the district, SELPA, regional, county and state levels, and through Institutes of Higher Education (IHE) in the following areas:

- Current literacy and learning research,
- State adopted standards and frameworks,
- Increased participation of students with disabilities in statewide student assessments, and
- Research-based instructional strategies for teaching reading to a wide range of diverse learners to increase the percentage of children with disabilities who are literate.

Examples of staff development opportunities may include phonemic awareness, multimodality instruction, language/literacy integration, and other literacy trainings. Some trainings are offered at the local level while others are offered outside the districts.

The specific training needs of special education personnel are identified early, and personnel participate in staff development opportunities based on their individual needs for continued professional development. The procedures to implement this policy are addressed in the local districts' processes that ensure participation of special education personnel by providing release time, incentives for participation in trainings/workshops outside the school day, etc.

Legal References:

EDUCATION CODE

41530-41533 Professional Development Block Grant
44032 Travel expense payment
44259.5 Standards for teacher preparation
44277 Professional growth programs for individual teachers
44325-44328 District interns
44450-44468 University internship program
44570-44578 Inservice training, secondary education
44580-44591 Inservice training, elementary teachers
44630-44643 Professional Development and Program Improvement Act of 1968
44700-44705 Classroom teacher instructional improvement program
45028 Salary schedule and exceptions
48980 Notification of parents/guardians: schedule of minimum days
56240-56245 Staff development; service to persons with disabilities
99200-99206 Subject matter projects

GOVERNMENT CODE

3543.2 Scope of representation of employee organization

CODE OF REGULATIONS, TITLE 5

13025-13044 Professional development and program improvement

UNITED STATES CODE, TITLE 20

6319 Highly qualified teachers

6601-6702 Preparing, Training and Recruiting High Quality Teachers and Principals

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

United Faculty of Contra Costa Community College District v. Contra Costa Community College District, (1990)

PERB Order No. 804, 14 PERC P21, 085

Management Resources:

CSBA PUBLICATIONS

Governing to the Core: Professional Development for Common Core, Governance Brief, May 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

State Board of Education Guidelines and Criteria for Approval of Training Providers, March 2008

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Standards for the Teaching Profession, 2009

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, Professional Development: <http://www.cde.ca.gov/pd>

California Subject Matter Projects: <http://csmp.ucop.edu>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

CLASSIFICATION: STUDENTS

SUBJECT: STUDENT RECORDS

Adopted: 09/2008

Revised: 2/2015

First Reading: 3/20/15

Second Reading: 4/24/15

Adopted: 5/29/15

The West End Special Education Local Plan Area (SELPA) and the 10 member districts recognize the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the district, SELPA, or state in accordance with applicable state and federal laws, including, but not limited to the Family Educational Rights and Privacy Act (FERPA). Each local district's procedure for the collection, storage, disclosure, and destruction of student records will apply to special education records.

The Superintendent or designee shall establish regulations governing the identification, description, and security of student records, as well as timely access for authorized persons. These regulations shall ensure parental rights to review, inspect, and copy student records and shall protect the student and his/her family from invasion of privacy. The Superintendent or designee shall designate a certificated employee to serve as custodian of special education records at the district level. The custodian of records shall be responsible for implementing SELPA and Local Education Agency (LEA) policies and administrative regulations regarding student records. At each school, the principal or a certificated designee shall act as custodian of records for students enrolled at that school. The local district's procedure for challenging student records shall also apply to special education records.

Legal References:

EDUCATION CODE

48201 Student records for transfer students who have been suspended/expelled

48904-48904.3 Withholding grades, diplomas, or transcripts

48918 Rules governing expulsion procedures

49060-49079 Student records

49091.14 Parental review of curriculum

51747 Independent study programs

56050 Surrogate parents

56055 Foster parents

56504 School Records; Inspection and Reproduction

CODE OF CIVIL PROCEDURE

1985.3 Subpoena duces tecum

FAMILY CODE

3025 Access to records by noncustodial parents

GOVERNMENT CODE

6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

120440 Immunizations; disclosure of information

WELFARE AND INSTITUTIONS CODE

681 Truancy petitions

16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

430-438 Individual student records

16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

300.501 Opportunity to examine records for parents of student with disability

Management Resources:

FEDERAL REGISTER

Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy, December 9, 2008,
Vol. 73, No. 237, pages 74806-74855

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Joint Guidance on the Application of FERPA and HIPAA to Student Health Records, November 2008

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Family Policy Compliance Office,
<http://www.ed.gov/policy/gen/guid/fpc/index.html>

CLASSIFICATION: STUDENTS

SUBJECT: STUDENT RECORDS

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 3/20/15

Second Reading: 4/24/15

Adopted: 5/29/15

Definition

Student records are any items of information (in handwriting, print, tape, film, computer, or other medium) gathered within or outside the district that are directly related to an identifiable student and maintained by the district, required to be maintained by an employee in the performance of his/her duties, or maintained by a party acting for the district. Any information maintained for the purpose of second-party review is considered a student record. Student records include the student's health record.

Student records do not include:

1. Directory information
2. Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute
3. Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8
4. Records created or received by the district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student
5. Grades on peer-graded papers before they are collected and recorded by a teacher

Mandatory Permanent Student Records

Mandatory permanent student records are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation, or administrative directive.

The following mandatory permanent student records shall be kept indefinitely

1. Legal name of student
2. Date and place of birth and method of verifying birth date.
3. Sex of student Name and address of parent/guardian of minor student
 - a. Address of minor student if different from the above
 - b. Annual verification of parent/guardian's name and address and student's residence
4. Entrance and departure dates of each school year and for any summer session or other extra session
5. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given
6. Verification of or exemption from required immunizations
7. Date of high school graduation or equivalent

Mandatory Interim Student Records

Mandatory interim student records are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation, or

administrative directive. Most special education records are considered to be mandatory interim records. Mandatory interim student records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district.

The following are considered mandatory interim student records:

1. Expulsion orders and the causes therefore
2. A log identifying persons or agencies who request or receive information from the student record
3. Health information, including verification or waiver of the health screening for school entry
4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge
5. Language training records
6. Progress slips/notices required by Education Code 49066 and 49067
7. Parental restrictions/stipulations regarding access to directory information
8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
9. Parent/guardian authorization or denial of student participation in specific programs
10. Results of standardized tests administered within the past three years
11. Written findings resulting from an evaluation conducted after a specified number of missed assignments to determine whether it is in a student's best interest to remain in independent study

Permitted Student Records

Permitted student records are those records having clear importance only to the current educational process of the student.

Permitted student records may be destroyed six months after the student completes or withdraws from the educational program, including:

1. Objective counselor and/or teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data
4. Verified reports of relevant behavioral patterns
5. All disciplinary notices
6. Supplementary attendance records

Records shall be destroyed in a manner that assures they will not be available to possible public inspection in the process of destruction.

Access

Access means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. School officials and employees are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records. School officials and employees include contractors, consultants, volunteers, or other parties to whom the district has outsourced district functions and who perform services for which the district would otherwise use employees. A legitimate educational interest is one held by school officials and employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

The following persons or agencies shall have absolute access to any and all student records in accordance with law:

1. Parents/guardians of students younger than age 18. Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent
2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records
3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena
4. Adult student is a person who is or was enrolled in school and who is at least 18 years of age.
5. Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent.
6. County placing agency means the county social service department, county department of mental health, or county probation department.

Disclosure

Disclosure means to permit access to, or the release, transfer, or other communication of, personally identifiable information contained in education records to any party, except the party that provided or created the record, by any means including oral, written, or electronic.

Personally identifiable information includes, but is not limited to:

1. The student's name
2. The name of the student's parent/guardian or other family members
3. The address of the student or student's family
4. A personal identifier, such as the student's social security number, student number, or biometric record (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting)
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the student record relates

Unless otherwise instructed by the court, the Superintendent or designee shall, prior to disclosing a record pursuant to a court order or subpoena, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested, if lawfully possible within the requirements of the judicial order.

In addition, the following persons or agencies shall have access to those particular records that are relevant to their legitimate educational interest:

1. Parents/guardians of a dependent student age 18 or older
2. Students who are age 16 or older or who have completed the 10th grade.
3. School officials and employees (consistent with criteria defined by the district)

4. Members of a school attendance review board (SARB) and any volunteer aide age 18 or older who has been investigated, selected, and trained by the SARB to provide follow-up services to a referred student
5. Officials and employees of other public schools, school systems, or postsecondary institutions where the student intends or is directed to enroll, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, or where the student is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer
6. When the district discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the record that is disclosed, and give the parent/guardian or adult student an opportunity for a hearing to challenge the record.
7. Federal, state, and local officials, as needed for program audits or compliance with law
8. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition or a prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws
9. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation
10. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student or for the purpose of presenting evidence in a truancy petition
11. Upon releasing student information to a judge or probation officer in such cases, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours
12. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law and to assist with the school transfer or enrollment of a student
13. Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts and any Individualized Education Program (IEP) developed and maintained by the district with respect to such students
14. Persons, agencies, or organizations not afforded access rights by law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made. Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student.

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another public school district or California private school. The information shall be released only to designated peace officers, federal criminal investigators, and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency in accordance with the procedures specified in Education Code 49076.5.

The Superintendent or designee may release information from a student's records to the following:

1. Appropriate persons, including parents/guardians of a student, in an emergency, if the health and safety of the student or other persons are at stake
2. Accrediting associations
3. Under the conditions specified in Education Code 49076 and 34 CFR 99.31, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, provided that:
 - a. The study is conducted in a manner that does not permit personal identification of parents/guardians and students by individuals other than representatives of the organization who have legitimate interests in the information.
 - b. The information is destroyed when no longer needed for the purposes for which the study is conducted.
 - c. The district enters into a written agreement with the organization that includes the information in 34 CFR 99.31.
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll
5. Agencies or organizations in connection with the student's application for or receipt of financial aid
6. However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, determine the amount of financial aid, determine the conditions which will be imposed regarding the financial aid, or enforce the terms or conditions of the financial aid.
7. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

The Superintendent or designee may release information specified in law regarding a student's immunization record to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the Superintendent or designee shall notify the parent/guardian of his/her rights in accordance with law.

The Superintendent or designee may release information from a student record without prior consent of the parent/guardian or adult student after the removal of all personally identifiable information, provided that he/she has made a reasonable determination that the student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. The Superintendent or designee may release de-identified student data from education records for the purpose of educational research in accordance with the conditions specified in 34 CFR 99.31.

Custodian of Records

Custodian of records is the employee responsible for the security of student records maintained by the district and for devising procedures for assuring that access to such records is limited to authorized persons. The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. The custodian of records shall develop reasonable methods, including physical, technological, and administrative controls, to ensure that school officials and employees obtain access to only those student records in which they have legitimate educational interests.

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located.

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student.

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record.

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data.

Request for Records

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records. For those individuals for whom the law requires that access be granted based on a legitimate educational interest, the request shall specify such interest involved. Prior to granting the request, the custodian of records shall authenticate the individual's identity.

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before the district discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The district's consent form shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, the district shall provide him/her a copy of the records disclosed.

Within five business days following the date of request, a parent/guardian or other authorized person shall be granted access to inspect, review, and obtain copies of student records during regular school hours. Qualified certificated personnel shall be available to interpret records when requested. The custodian of records or the Superintendent or designee shall prevent the alteration, damage, or loss of records during inspection.

A log shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the records and the legitimate educational interest of the requester. In every instance of inspection by persons who do not have assigned educational responsibility, the custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection.

The log does not need to include record of access by:

1. Parents/guardians or adult students
2. Students who are 16 years of age or older or who have completed the 10th grade
3. Parties obtaining district-approved directory information
4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record
5. School officials and employees who have a legitimate educational interest

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student age who is 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials.

Fees for Student Records

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of providing the copies. However, if this cost effectively prevents the parent from exercising the right to receive the copy or copies of his/her child's special education records, the copy or copies shall be reproduced at no cost. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record.

Transfer of Records

If a student transfers into this district from any other school district or a private school, the Superintendent or designee shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records.

When a student transfers into this district from another district, the Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion.

When a student transfers from this district to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's mandatory permanent record as requested by the other district or private school. The original record or a copy shall be retained permanently by this district. If the transfer is to another California public school, the student's entire mandatory interim record shall also be forwarded. If the transfer is out of state or to a private school, the mandatory interim record may be forwarded. Permitted student records may be forwarded to any other district or private school.

Upon receiving a request from a county placing agency to transfer a student in foster care out of a district school, the Superintendent or designee shall transfer the student's records to the next educational placement within two business days.

All student records shall be updated before they are transferred.

Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian.

If the district is withholding grades, diploma, or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting district along with the student's records.

Notifications

Upon any student's initial enrollment, and at the beginning of each school year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights

related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. The notice shall include:

1. The types of student records kept by the district and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. District criteria for defining school officials and employees and for determining legitimate educational interest
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights
8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073
10. The right to consent to disclosures of personally identifiable information contained in the student's records except when disclosure without consent is authorized by law
11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school
12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Education concerning an alleged failure by the district to comply with 20 USC 1232g
13. A statement that the district forwards education records to other agencies or institutions that request the records and in which the student seeks or intends to enroll or is already enrolled as long as the disclosure is for purposes related to the student's enrollment

CLASSIFICATION: Students

SUBJECT: SPECIALIZED HEALTH CARE SERVICES

Formerly "Private Nursing Services"

Adopted: 9/08

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

The West End SELPA, San Bernardino County, assures that students are provided with health care services, as related services, when the services are necessary for the student to attend school. These services are a part of the Student's Health Plan when it is appropriate for the services to be provided by school personnel and do not need to be administered by a physician.

Federal Law

The Individuals with Disabilities Education Act (I.D.E.A.) of 2004 ensures that all children have available to them a free, appropriate public education. The law emphasizes special education and related services designed to meet their unique needs, to assure the rights of children with disabilities and their parents or guardians are protected, and to assess and assure the effectiveness of efforts to educate children with disabilities education and related services. School health services are a related service.

Federal Regulations provide further distinction between "school health services," which are provided by a "qualified school nurse or other qualified person," and "medical services," which are provided by a licensed physician. The District must provide the former (school health services) but not the latter (except those "medical services" that are for diagnostic or evaluation purposes).

Definition

Students who need school health services require special health care procedures for life support or health support during the school day in order to be able to benefit from the educational program.

Transportation

Each LEA provides transportation as a related service if the student requires this service in order to receive special education.

Transportation issues are addressed on the student's IEP and may become a part of the Health Plan if school health services are required on the bus.

Legal References:

EDUCATION CODE

| | |
|-------------|--|
| 44267 | Services credential with specialization in health |
| 44267.5 | Services credential with specialization in health for school nurse |
| 49423 | Administration of prescribed medication for student |
| 49423.5 | Specialized physical health care services |
| 49426 | School nurses |
| 56000-56606 | Special education programs, especially: |
| 56001 (1) | Provision of psychological and health services |

56345 Individualized education program contents
56363 Related services
BUSINESS AND PROFESSIONS CODE
2700-2837 Nursing, especially:
2726 Authority not conferred
2727 Exceptions in general
CODE OF REGULATIONS, TITLE 5
3051.12 Health and nursing services
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Education Act
CODE OF FEDERAL REGULATIONS, TITLE 34
300.1-300.818 Individuals with Disabilities Education Act, especially:
300.34 Related services
COURT DECISIONS:
Cedar Rapids Community School District v. Garret F., (1999) 526 U.S. 66
Clovis Unified School District v. Office of Administrative Hearings, (1990) 903 D.2d 635
Taylor v. Honig, (1990) 910 F.2d 627

Management Resources:

WEBSITES

California Department of Education, Health Services and School Nursing: <http://www.cde.ca.gov/ls/he/hn>

California School Nurses Organization: <http://www.csno.org>

Legal References:

The Medically Fragile Child in the School Setting, A Resource Guide for the Educational Team, American Federation of Teachers, AFL_CIO, 1992.

Medically Related Services: Did the Supreme Court Change the Tatro Standard?, Charles L. Weatherly and Kathleen A. Sullivan.

Individuals with Disabilities Education Law Report, Vol. 29, Iss. 9, April 1999.

U.S. Supreme Court Ruling No. 96-1793

CLASSIFICATION: Students

SUBJECT: SPECIALIZED HEALTH CARE SERVICES
Formerly "Private Nursing Services"Adopted: 9/08
Revised: 9/25/15
First Reading: 9/25/15
Second Reading: 12/11/15
Adopted: 1/22/16

The West End SELPA of San Bernardino County assures that students are provided with health care services, as related services, when the services are necessary for the student to attend school. These services are part of the Student's Health Plan when it is appropriate for the services to be provided by school personnel and do not need to be administered by a physician.

Federal Law

The Individuals with Disabilities Education Act (IDEA) of 2004 insures that all children have available to them a free, appropriate public education. The law emphasizes special education and related services designed to meet their unique needs, to assure the rights of children with disabilities and their parents or guardians are protected, and to assess and assure the effectiveness of efforts to educate children with disabilities education and related services. School physical health services are a related service.

Federal Regulations provide further distinction between "school health services," which are provided by a "qualified school nurse or other qualified person," and "medical services," which are provided by a licensed physician. The District must provide the former (school health services) but not the latter (except those "medical services" that are for diagnostic or evaluation purposes).

Definitions

Students who need school health services require special health care procedures for life support or health support during the school day in order to be able to benefit from the educational program.

Specialized physical health services means those health services prescribed by the student's licensed physician requiring medically related training for the individual who performs the services and which are necessary during the school day to enable the student to attend school. These services include catheterization, gastric tube feeding, suctioning, or other services that require medically related training. (Education Code 49423.5; 5 CCR 3051.12)

Qualified means the ability to demonstrate competence in cardio-pulmonary resuscitation, current knowledge of community emergency medical resources, and skill in the use of equipment and performance of techniques necessary to provide specialized physical health care services for individuals with disabilities. In addition, for designated school personnel, qualified means trained in the procedures to a level of competence and safety, which meets the objectives of the training as provided by the school nurse, public health nurse, licensed physician, or other programs that provide the training. (Education Code 49423.5; 5 CCR 3051.12)

Training means the preparation in the appropriate delivery and skillful performance of specialized physical health care services. (5 CCR 3051.12)

Supervision means review, observation, and/or instruction of a designated school person's performance and of physical health care services, but does not necessarily require the immediate presence of a supervisor at all times. (5 CCR 3051.12)

Provision of Services

A student with disabilities who requires specialized health care services during the school day, as identified in his/her individualized education program (IEP), may be assisted by any of the following individuals: (Education Code 49423.5, 56345)

1. Qualified persons who possess an appropriate credential pursuant to Education Code 44267 (service credential with specialization in health), Education Code 44367.5 (service credential with specialization in health for school nurse), or a valid certificate of public health nursing issued by the Board of Registered Nursing
2. Qualified designated school personnel trained in the administration of specialized physical health care if they perform those services under the supervision of a credentialed school nurse, public health nurse, or licensed physician and the services are determined by the credentialed school nurse or licensed physician, in consultation with the physician treating the student, to meet all of the following criteria:
 - a. Constitute routine care for the student
 - b. Pose little potential harm for the student
 - c. Are performed with predictable outcomes, as defined in the student's IEP
 - d. Do not require a nursing assessment, interpretation, or decision making by the designated school personnel

Specialized health care or other services that require medically-related training shall be provided pursuant to Education Code 49423. (Education Code 49423.5)

School shall provide appropriate accommodations for safety and necessary physical care services. The student's personal privacy and dignity shall be assured. (5 CCR 3051.12)

A qualified school nurse, public health nurse, or licensed physician responsible for supervising the physical health care of students with disabilities in the school setting shall: (5 CCR 3051.12)

1. Coordinate the health care services to the students with disabilities on the school site
2. Consult with appropriate personnel regarding management of health care services for students with disabilities
3. Make appropriate referrals and maintain communication with health agencies providing care to students with disabilities

4. Maintain or review licensed physician and parent/guardian requests and daily documentation records

The licensed physician of a student with disabilities who is required to receive physical health care services shall provide a written statement detailing the procedure and time schedule by which such procedures are to be given. In addition, the student's parent/guardian shall provide a written statement indicating his/her desire that the district assist the student in the matters set forth in the physician's statement and granting consent for the delivery of such services. (5 CCR 3051.12)

For each student with disabilities, the district shall maintain the physician and parent/guardian statements, as well as the specific standardized procedures to be used if the services are provided. The district shall also maintain daily documentation of specific services provided and shall include the signatures of the personnel who performed the procedure. This documentation shall be maintained in accordance with the requirements for confidentiality of student records and shall be classified as mandatory interim student records. (5 CCR 3051.12)

Procedure for Developing the IEP of a Student with Specialized Health Care Needs

If a student is eligible for special education, the health plan is part of the IEP process. Whether the child is eligible for special education or not, a meeting including the parents, a nurse knowledgeable about the student's health care needs, and members of the education team is convened to discuss safe and appropriate classroom placement, and necessary services and personnel for the child to attend school in the Least Restrictive Environment. The issues addressed include:

- the medical problem
- the child's condition and needs
- the procedure/s required
- how the need is currently being met
- how the procedure is performed
- what records are kept
- what level of personnel is required
- what supervision is needed
- what the educational impact is
- where the educational placement should be

The information from this meeting becomes a health plan that is a part of the IEP of a student who is eligible for special education.

The school nurse is legally responsible for school nursing procedures. He or she can delegate that responsibility by training and certifying other school staff. All staff having contact with the student should be informed about the student's needs and given training for services it is appropriate for them to provide.

Review of training and caregiving should be evaluated regularly as needs change and information and technology are updated.

There may be private nursing services that have been prescribed by a physician. During a transition period, a nurse from a private agency, who is supported by private insurance or other non-school funds, may provide nursing services. This transition period allows school personnel to be trained in the procedure that is needed. Private nurses on a school campus follow the same requirements as school volunteers, including providing the school/district with current fingerprint clearance, certificate of negative tuberculosis, and emergency information. In addition, the private nurse should provide the following: certification information, and name and address of employing agency.

Transportation

Each LEA provides transportation as a related service if the student requires this service in order to receive special education.

Transportation issues are addressed on the student's IEP and may become a part of the Health Plan if school health services are required on the bus.

Legal References:

EDUCATION CODE

- 44267 Services credential with specialization in health
- 44267.5 Services credential with specialization in health for school nurse
- 49423 Administration of prescribed medication for student
- 49423.5 Specialized physical health care services
- 49426 School nurses
- 56000-56606 Special education programs, especially:
 - 56001 (1) Provision of psychological and health services
- 56345 Individualized education program contents
- 56363 Related services

BUSINESS AND PROFESSIONS CODE

- 2700-2837 Nursing, especially:
 - 2726 Authority not conferred
 - 2727 Exceptions in general

CODE OF REGULATIONS, TITLE 5

- 3051.12 Health and nursing services

UNITED STATES CODE, TITLE 20

- 1232g Family Educational Rights and Privacy Act of 1974
- 1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

- 300.1-300.818 Individuals with Disabilities Education Act, especially:
 - 300.34 Related services

COURT DECISIONS

- Cedar Rapids Community School District v. Garret F., (1999) 526 U.S. 66
- Clovis Unified School District v. Office of Administrative Hearings, (1990) 903 D.2d 635
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Legal References:

The Medically Fragile Child in the School Setting, A Resource Guide for the Educational Team, American Federation of Teachers, AFL_CIO, 1992.

Medically Related Services: Did the Supreme Court Change the Tatro Standard?, Charles L. Weatherly and Kathleen A. Sullivan.

Individuals with Disabilities Education Law Report, Vol. 29, Iss. 9, April 1999.

U.S. Supreme Court Ruling No. 96-1793

WEST END SPECIAL EDUCATION LOCAL PLAN AREA**BP 5141.31**

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CLASSIFICATION: STUDENTS**SUBJECT: IMMUNIZATIONS****Adopted:****Revised:****First Reading: 12/9/16****Second Reading: 1/20/17****Adopted: 1/20/17**

To protect the health of all students and staff and to curtail the spread of infectious diseases, the SELPA Governing Board shall cooperate with state and local public health agencies to encourage and facilitate immunization of all district students against preventable diseases.

Each student enrolling for the first time in a district elementary or secondary school, preschool, or child care and development program or, after July 1, 2016, enrolling in or advancing to grade 7 shall present an immunization record from any authorized private or public health care provider certifying that he/she has received all required immunizations in accordance with law. Students shall be excluded from school or exempted from immunization requirements only as allowed by law.

Each transfer student shall be requested to present his/her immunization record. If possible, upon registration at a district school. If the transfer student is unable to provide his/her immunization record upon registration, the student may be conditionally admitted for up to 30 days while student's immunization records are being transferred. If such documentation is not presented within 30 days, the student shall be excluded from school until the required immunizations have been received.

The district Superintendent or designee may arrange for an authorized health care provider to administer immunizations at school to any student whose parent/guardian has consented in writing. At the beginning of the school year, parents/guardians shall be notified of their right to provide consent for the administration of an immunization to their child at school. (Education Code 49403)

Legal References**EDUCATION CODE:**

- 44871 Qualifications of supervisor of health
- 46010 Total days of attendance
- 48216 Immunizations
- 48853.5 Immediate enrollment of foster youth
- 48980 Required notification of rights
- 49403 Cooperation in control of communicable disease and immunizations
- 49426 Duties of school nurses
- 4901 Flexibility in enrollment of children of military families
- 51745-5 17409.6 Independent study

HEALTH AND SAFETY CODE

- 120325-120380 Immunization against communicable disease especially:
- 12033-5 Immunization requirement for admission
- 120395 Information about meningococcal disease, including recommendation for vaccination

120440 Disclosure of immunization information

CODE OF REGULATIONS, TITLE 5

430 Student Records

CODE OF REGULATIONS, TITLE 17

6000-6075 School attendance immunization requirements

UNITED STATES CODE TITLE 20

1232g Family Educational Rights and Privacy Act

UNITED STATES CODE, TITLE 42

11432 Immediate enrollment of homeless children

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

CLASSIFICATION: STUDENTS**SUBJECT: IMMUNIZATIONS****Adopted:****Revised:****First Reading: 12/9/16****Second Reading: 3/24/17****Adopted: 3/24/17**

The Superintendent or designee shall provide parents/guardians, upon school registration, a written notice summarizing the state of California's immunization requirements.

Except as provided herein, effective July 1, 2016, the Superintendent or designee shall not unconditionally admit any student to a district elementary or secondary school, preschool, or child care and development program for the first time nor admit or advance any student to grade 7, unless the student has been fully immunized. The student shall present documentation of full immunization, in accordance with the age/grade and dose required by the California Department of Public Health (CDPH), against the following diseases:

1. Measles, mumps, and rubella (MMR)
2. Diphtheria, tetanus, and pertussis (whooping cough) (DTP, DTaP, or Tdap)
3. Poliomyelitis (polio)
4. Hepatitis B
5. Varicella (chickenpox)
6. Haemophilus influenza type b (Hib meningitis)
7. Pertussis (including all Pertussis boosters appropriate for the students' age)
7. Any other disease designated by the California Department of Public Health (CDPH)

However, full immunization against hepatitis B shall not be a condition by which the Superintendent or designee shall admit or advance any student to grade 7.

A student who qualifies for an individualized education program (IEP), unless exempt pursuant to state law, shall be fully immunized in accordance with the Health and Safety Code and this regulation. However, this shall not prohibit an under-immunized student with an IEP from accessing any special education and related services required by his/her IEP.

The student's immunization record shall be provided by the student's parent/guardian. The personal immunization record documentation that shall be accepted is from a health care provider, California Immunization Registry (CAIR), another state's and countries' records, or from the student's previous school immunization record. The record must show at least the month and year for each dose, except that the day, month, and year must be shown for the MMR doses given during the month of the first birthday and for the Tdap dose given during the month of the seventh birthday.

Exemptions

A temporary or permanent exemption from one or more immunizations shall be granted under any of the following circumstances:

1. The parent/guardian files with the district a written statement by a licensed physician (M.D./D.O.) to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe and the specific nature and probable duration of the physical condition or medical circumstances, including, but not limited to, family medical history. The physician may provide a written statement that the student is medically exempt from the measles (rubella) and/or varicella (chickenpox) requirements as a result of having had measles and/or Varicella, or as a result of having had laboratory confirmed illness with the corresponding disease. A student with a temporary medical exemption shall be conditionally admitted; upon expiration of the temporary exemption, the student must receive all required immunizations. A student with a permanent medical exemption shall be unconditionally admitted.
2. The student's parent/guardian filed with the district, before January 1, 2016, a letter or written affidavit stating that an immunization is contrary to his/her personal beliefs, in which case the student shall be exempted from the immunization until he/she enrolls in the next applicable grade span requiring immunization. The grade spans are: birth to preschool, grades K-6, grades 7-12. Additionally, the personal belief exemptions will be allowed for any new immunizations deemed appropriate by the CDPH.
3. When a student transfers to a different school within the district, or transfers into the district from another school district in California, his/her personal beliefs exemption (PBE) filed before January 1, 2016, shall remain in effect until the next applicable grade span. A student transferring from a school outside the district shall present a copy of the personal beliefs exemption upon enrollment. In accordance with the CDPH, personal beliefs exemption issued by another state or country prior to January 1, 2016, are not valid in California. The Superintendent or designee may consult with legal counsel regarding the validity of any personal beliefs exemption and applicable immunization requirements. If the PBE documentation is no longer available, students must meet immunization requirements based on their age or grade.
4. The student is in a home-based private school.
5. The student is enrolled in an independent study program pursuant to Education Code 51745-51749.6 and does not receive classroom-based instruction.

Conditional Enrollment

The Superintendent or designee may conditionally admit a student with documentation from an authorized health care provider that:

1. The student has not received all the immunizations required for his/her age group, but has commenced receiving doses of all required vaccines in accordance with state regulations and is not due for any other doses at the time of admission. The Superintendent or designee shall notify the student's parent/Guardians of the date by which the student must complete all the required immunizations.
2. The student has a temporary exemption from immunization for medical reasons, and the required immunizations are obtained at the termination of the exemption. The Superintendent or designee

shall notify the student's parents/guardians of the date by which the student must complete all the remaining doses.

3. A transfer student may be conditionally admitted for up to 30 school days while his/her immunization records are being transferred from the previous school. If such documentation is not presented within 30 days, the student shall be excluded from school until the required immunizations have been received. The Superintendent or designee shall review the immunization record of each student admitted conditionally every 30 school days until that student has received all the required immunizations. If the student does not receive the required immunizations within the specified time limits, he/she shall be excluded from further attendance until the immunizations are received.
4. The Superintendent or designee shall immediately enroll foster youth, and students of military families even if their immunization records are missing or unavailable at the time of enrollment.

The Superintendent or designee shall immediately enroll homeless students, foster youth, and students of military families even if their immunization records are missing or unavailable at the time of enrollment. School or district staff shall work with the student's parent/guardian and prior school to obtain the student's immunization records or shall ensure that he/she is properly immunized.

Exclusions Due to Lack of Immunizations

Any student without the required evidence of immunization may be excluded from school until proof of immunization is obtained or an exemption is granted in accordance with the section "Exemptions" above. Students who qualify for IEP's shall not be prohibited from accessing any special education and related services required by the IEP.

Before an already admitted student is excluded from school attendance because of lack of immunization, the Superintendent or designee shall notify the parent/guardian in writing that he/she has 10 school days to supply evidence of proper immunization or an appropriate exemption. This notice shall refer the parent/guardian to the student's usual source of medical care or, if the student has no usual source of medical care, then to the county health department

The Superintendent or designee shall exclude from further attendance any already admitted student who fails to obtain the required immunization within 10 school days following the parent/guardian's receipt of the notice specified above. The student shall remain excluded from school until he/she provides written evidence that he/she has received a dose of each required vaccine due at that time. The student shall also be reported to the attendance supervisor or principal.

Exclusion Due to Exposure to Disease

Under the direction of the county health officer and if the district has good cause to believe that a student has been exposed to a disease listed in the section "Required Immunizations" above and his/her documentation of immunization does not show proof of complete immunization against that disease, that student may be temporarily excluded from the school until the local health officer informs the district in writing that he/she is satisfied that the student is no longer at risk of developing or transmitting the disease.

Records

The Superintendent or designee shall record each new entrant's immunizations in the California School Immunization Record and retain it as part of the student's mandatory permanent student record. District staff shall maintain the confidentiality of immunization records and may disclose such information to state and local health departments only in accordance with law. The District shall file a written report on the immunization status of new entrants with the CDPH and the local health department at times and on forms prescribed by the CDPH. The local health department shall have access to the complete health information as it relates to immunization of each student in order to determine immunization deficiencies.

The district shall also retain in the mandatory student record any physician or health officer statement, personal beliefs letter or affidavit, reason for conditional enrollment, or any other documentation related to the student's immunization record or exemptions. The District shall cooperate with the county health officer in carrying out programs for the immunization of students. The District may use funds, property, and personnel of the District for that purpose. The District may permit any licensed physician or any qualified registered nurse to administer immunizing agents to any student seeking admission to any District school or institution.

Audits

If an audit reveals deficiencies in the district's reporting procedures, a remedial plan will be provided to the Superintendent or designee

Legal References:

EDUCATION CODE

48216
48853.5
49076(a) (4)
49701

Health and Safety Code

120335
120338
120340
120440
120341
120370
120375

California Code of Regulations

17 CCR 6000
17 CCR 6020
17 CCR 6035
17 CCR 6040
17 CCR 6050
17 CCR 6051
17 CCR 6055

17 CCR 6060
17 CCR 6070

United States Code
42 USC 11432

cf. 5141.22 - Infectious Diseases
cf. 5148 - Child Care and Development
cf. 5148.3 - Preschool/Early Childhood Education
cf. 6170.1 - Transitional Kindergarten
cf. 6141.2 - Recognition of Religious Beliefs and Customs
cf. 6158 - Independent Study
cf. 5145.6 - Parental Notifications
cf. 6173 - Education for Homeless Children
cf. 6173.1 - Education for Foster Youth
cf. 6173.2 - Education of Children of Military Families
cf. 5112.2 - Exclusions from Attendance
cf. 6183 - Home and Hospital Instruction
cf. 5141.6 - School Health Services
cf. 5125 - Student Records

CA Immunization Handbook (9th ed. 2016)

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

BP 5144.2

CLASSIFICATION: Students

Adopted: 9/07

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

SUBJECT: SUSPENSION/EXPULSION

It shall be the policy of the West End SELPA that data on suspension and expulsion rates will be provided in the manner prescribed by the state.

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act ("IDEA") may be disciplined in the same manner as a student without disabilities.

A student who has not been identified as an individual with disabilities pursuant to the IDEA and who has violated the district's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the district had knowledge that the student was disabled before the behavior occurred. If the parent/guardian has not allowed the student to be evaluated for special education services or has refused services, the district would be deemed to not have knowledge that the student was disabled. In addition, the district would be deemed to not have knowledge that the student was disabled if the district conducted an evaluation and determined that the student was not an individual with a disability. (20 U.S.C. § 1415(k)(5).)

The District Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change of placement pursuant to 34 C.F.R. § 300.536. (34 C.F.R. § 300.530(d).)

The student's individualized education program ("IEP") team shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. The student's IEP team shall consider the length of each removal, whether the behavior in each incident is substantially similar, the total time removed, and proximity in time of removals. (20 U.S.C. § 1415(k)(1)(A); 34 C.F.R. §§ 300.530, 300.536.)

Within 10 days of the decision to change the placement of a student with a disability for more than 10 days for disciplinary reason, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the school district's failure to implement the IEP.

The parents and the school district determine who qualifies as relevant IEP team members. The team conducting the manifest determination shall review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e).)

If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavior assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the determination before the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or if the student is in

an interim alternative educational setting. If the student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. (20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(b)(2).) If the behavior is not a manifestation of the student's disability, the student may be disciplined as a general education student. (20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c).)

Member districts and LEAs shall develop district policies and regulations governing the suspension and expulsion of special education students, which are in accordance with state and federal regulations.

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

The LEA Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Cal. Educ. § 48917.)

California Education Code section 48203 requires the district to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, age, last known address, and the reason for the expulsion or suspension.

Legal References:

EDUCATION CODE

35146 Closed sessions (re suspensions)

35291 Rules (of governing board)

48203 Reports of severance of attendance of disabled students

48900-48925 Suspension and expulsion

56000 Special education; legislative findings and declarations

56320 Educational needs; requirements

56321 Development or revision of individualized education program

56329 Independent education program teams

56340-56347 Individual education program teams

56505 State hearing

UNITED STATES CODE, TITLE 20

1412 State Eligibility

1415 Procedural safeguards

UNITED STATES CODE, TITLE 29

706 Definitions

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.818 Assistance to states for the education of students with disabilities

300.530-300.537 Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W.v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P.v.Governing Board of Grossmont Union High School District, (1994 S.D. Cal). 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Doe v. Maher, (1986) 793 F.2d 1470

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

AR 5144.2

CLASSIFICATION: Students

Adopted: 00/00/00

Revised: 00/00/00

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

SUBJECT: SUSPENSION/EXPULSION

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act ("IDEA") is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act ("IDEA") may be disciplined in the same manner as a student without disabilities.

A student who has not been identified as an individual with disabilities pursuant to the IDEA and who has violated the district's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the district had knowledge that the student was disabled before the behavior occurred. (20 USC 1415 § (k)(5); 34 C.F.R. § 300.534) If the parent/guardian has not allowed the student to be evaluated for special education services or has refused services, the district would be deemed to not have knowledge that the student was disabled. In addition, the district would be deemed to not have knowledge that the student was disabled if the district conducted an evaluation and determined that the student was not an individual with a disability. (20 U.S.C. § 1415(k)(5).)

Suspension

The District Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change of placement pursuant to 34 C.F.R. § 300.536. (34 C.F.R. § 300.530(d).) For students suspended for up to 10 days and when the suspension does not constitute a change in placement, the school district need only provide educational services to a student with a disability if the services are offered to non-disabled students. (34 C.F.R. § 300.530(d).)

The student's individualized education program ("IEP") team shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. The student's IEP team shall consider the length of each removal, whether the behavior in each incident is substantially similar, the total time removed, and proximity in time of removals. (20 U.S.C. § 1415(k)(1)(A); 34 C.F.R. §§ 300.530, 300.536.)

Procedural Safeguards/Manifestation Determination

Within 10 days of the decision to change the placement of a student with a disability for more than 10 days for disciplinary reason, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the school district's failure to implement the IEP.

The parents and the school district determine who qualifies as relevant IEP team members. The team conducting the manifest determination shall review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent. (20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e).)

If the behavior is a manifestation of the student's disability, the school district must conduct a functional behavior assessment and implement a behavioral intervention plan (provided that the school district had not conducted such assessment prior to the determination before the behavior resulted in a change of placement), and return the student to the previous placement unless the school district and parent agree to a change of placement or if the student is in an interim alternative educational setting. If the student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. (20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(b)(2).) If the behavior is not a manifestation of the student's disability, the student may be disciplined as a general education student. (20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c).)

Services During Suspension

If a student with a disability is suspended for more than 10 cumulative days, but there has been no change in placement, school personnel, with at least one of the student's teachers, determine the extent to which the student's services are needed so as to enable him or her to participate in the general education curriculum, although in another setting, and to progress toward meeting the goal set out in his or her IEP. (34 C.F.R. § 300.530(d)(4).)

If a student with a disability is suspended for more than 10 cumulative days, and there has been a change in placement, on the 11th day of removal, the student's IEP team members must decide on services to:

1. Enable the student to continue to participate in general education curriculum;
2. Progress towards the IEP goals;
3. Receive a functional behavioral assessment, as appropriate, and behavioral intervention services and modifications. (20 U.S.C. § 1415(k)(1)(A); 34 C.F.R. §§ 300.530, 300.536.)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Cal. Educ. Code § 48915.5)

Interim Alternative Placement Due to Dangerous Behavior

The school district may remove a student with a disability to an interim alternative educational setting for up to 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student:

1. Carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function;
2. Knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or
3. Has inflicted serious bodily injury upon another person at school, on school premises, or at a school function.

The student's interim alternative educational setting shall be determined by the student's IEP team. (20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g).)

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC § 1415(k)(1)(D); 34 C.F.R. § 300.530)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 C.F.R. § 300.530 (suspension and removal for dangerous circumstances) or 34 C.F.R. § 300.531 (interim alternative placement), or the manifestation determination under 34 C.F.R. § 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a hearing, the requesting party shall file a complaint pursuant to 34 C.F.R. §§ 300.507 and 300.508(a) and (b).

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 C.F.R. §§ 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 C.F.R. § 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise.

Decision Not to Enforce Expulsion Order

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Cal. Educ. Code § 48917.)

Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students and in accordance with school district policy.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Cal. Educ. Code § 49076)

Report to County Superintendent of Schools

California Education Code section 48203 requires the district to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, age, last known address, and the reason for the expulsion or suspension.

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC § 1415(k)(5); 34 C.F.R. § 300.534)

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC 1415 § (k)(5); 34 C.F.R. § 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC § 1414(a)(1)(B) or 34 C.F.R. §§ 300.300-300.311.
3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student. (20 USC 1415 § (k)(5); 34 C.F.R. § 300.534)

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 C.F.R. §§ 300.300-300.311, the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC § 1415(k)(5); 34 C.F.R. § 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 C.F.R. § 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC § 1415(k)(5); 34 C.F.R. § 300.534)

Legal References:

EDUCATION CODE

35146 Closed sessions re: suspensions
35291 Rules of governing board
48203 Reports of severance of attendance of disabled students
48900-48925 Suspension and expulsion
49076 Access to student records
56000 Special education; legislative findings and declarations
56320 Educational needs; requirements
56321 Development or revision of individualized education program
56329 Independent educational assessment
56340-56347 Individualized education program teams
56505 State hearing

PENAL CODE

245 Assault with deadly weapon

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act

626.10 Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

706 Definitions

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.530-300.537 Discipline procedures

COURT DECISIONS

Schaffer v. West, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs: <http://www.ed.gov/about/offices/list/osers/osep>

CLASSIFICATION: INSTRUCTION

Adopted: 0/00/00

Revised: 0/00/00

First Reading: 2/20/2015

Second Reading: 3/20/15

Adopted: 4/24/15

SUBJECT: DIFFERENTIAL GRADUATION AND COMPETENCY
STANDARDS FOR STUDENTS WITH DISABILITIES

The Governing Board of West End SELPA and its participating districts recognize that students with disabilities are entitled to a course of study that provides them with a free and appropriate public education (FAPE) and that modifications to the district's regular course of study may be needed on an individualized basis to provide FAPE. In accordance with the law, each student's Individualized Education Plan (IEP) team or Section 504 Services Plan shall determine measurable annual goals that would enable the student to progress in the general education curriculum as well as any appropriate individual accommodations necessary for measuring the academic achievement and functional performance of the student on state and district-wide assessments.

No student shall be classified as eligible for differential standards of proficiency for the purpose of circumventing the legal requirement to maintain academic eligibility for extracurricular or cocurricular activities.

Students with disabilities are exempt from the requirement to pass the California High School Exit Examination (CAHSEE) as a condition of receiving a diploma. This exemption lasts until the State Board of Education (SBE) either implements an alternative means for students with disabilities to demonstrate achievement in the standards measured by the exam or determines that an alternative assessment to the exam is not feasible.

All students subject to the requirements of the high school exit exam shall receive "adequate notice" as specified in law and Board policy.

A local educational agency may award a student with a disability a Certificate of Educational Achievement or Completion if the student has met one of the following requirements:

1. Satisfactorily completed a prescribed alternative course of study approved by the Governing Board of the district in which the student attended school or the district with jurisdiction over the student as identified in his/her IEP or Section 504 Services Plan;
2. Satisfactorily met his/her goals, and objectives if appropriate, during high school as identified in his/her IEP or Section 504 Services Plan if appropriate; or
3. Satisfactorily attended high school, participated in the instruction as prescribed in his/her IEP or Section 504 Services Plan if appropriate, and met the objectives of the statement of transition services.

A student with disabilities who meets any of the criteria specified above shall be eligible to participate in any graduation ceremony and any school activity related to graduation in which a graduating student of similar age without disabilities would be eligible to participate. Participation in a graduation ceremony does not equate to completion with a regular high school diploma.

Legal References:

EDUCATION CODE:

35160.5 Extracurricular and Cocurricular Activities; Differential Standards
48980 Parental Notifications
56000 Education of Individuals with Exceptional Needs
56341 Individualized Education Program Team
56345 Elements of the IEP
56393 Recognition of Educational Achievement or Completion of Program
60850-60856 High School Exit Exam

CODE OF REGULATIONS, TITLE 5

3070 Graduation

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.818 Individuals with Disabilities Education Act

WEBSITES:

CDE: <http://www.cde.ca.gov>

US Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/offices/OSERS>

CLASSIFICATION: INSTRUCTION**SUBJECT: DIFFERENTIAL GRADUATION AND COMPETENCY
STANDARD FOR STUDENTS WITH DISABILITIES****Adopted: 00/00/00****Revised: 00/00/00****First Reading: 2/20/2015****Second Reading: 3/20/15****Adopted: 4/24/15**

Beginning in the 2009-2010 school year, California Education Code 60852.3 provides an exemption from meeting the CAHSEE requirement as a condition of receiving a diploma of graduation for eligible students with disabilities who have an Individualized Education Program (IEP) or a Section 504 Services Plan. The IEP or Section 504 Services Plan must state that the student is scheduled to receive a high school diploma, and has satisfied or will satisfy all other state and local requirements for high school graduation, on or after July 1, 2009.

The priority for special education services and supports for students with disabilities should be to facilitate the student's meeting the district requirement for a standard diploma when appropriate. Students with disabilities should be encouraged to complete the district course of study and pass required examinations with or without accommodations or modifications, as specified in district policy and/or state law. If the student requires accommodations or modifications to examinations required by district policy and/or state law that are not approved by the test publisher, the district shall follow procedures for waiver of the test requirements as appropriate.

Students with disabilities should continue to take the CAHSEE and to receive appropriate remedial instruction. Under the Individuals with Disabilities Education Act (IDEA), students are entitled to special education services until age 22 or until they receive a diploma. Thus, a local educational agency (LEA) may reopen and revise an Individualized Education Plan (IEP) for a student who left high school without receiving a diploma, including students with disabilities enrolled in adult school, if the student has not reached age 22. If appropriate, the IEP may revise the IEP of an eligible student. Such appropriate revisions should include additional quality instruction to help the student pass the CAHSEE and may include receiving a diploma without passing the CAHSEE. If the revised IEP calls for receipt of a diploma after July 1, 2009, and the student has satisfied or will satisfy all other graduation requirements, then the student may be exempted from the CAHSEE requirement under the new statute. It is within the discretion of the IEP team to determine what revisions to the IEP, including further instruction, are appropriate for a particular student. A dispute over that determination would be subject to due process. This provision does not apply to students with Section 504 Service Plans.

Beginning in the 2009-10 school year, a student in an IEP or Section 504 Service Plan must include a statement that the student is scheduled to receive a high school diploma, and has satisfied all other state and local requirements for high school graduation, on or after July 1, 2009. If the student's individual needs require an alternative course of study which does not meet the requirements for a standard diploma, the parents and student should be notified by the end of the freshman year of high school that the student's program will lead to a Certificate of Educational Achievement rather than a diploma. This notification may be part of the development and/or review of the individualized transition plan (ITP).

Upon completion of the student's course of study as indicated on his/her IEP and ITP, the district shall certify that the student is eligible for a Certificate of Educational Achievement when one or more of the following criteria has been met:

1. The student has satisfactorily completed an alternative course of study approved by the governing board of the school district and specified in the student's IEP;
2. The student has satisfactorily achieved his/her IEP goals and objectives during high school as determined by the IEP team; and/or
3. The student has satisfactorily attended high school, participated in the instruction specified in his/her IEP, and has met the objectives of the student's individualized transition plan.

Students who earn a Certificate of Educational Achievement instead of a diploma may be eligible for special education and related services through the semester they turn age 22.

Legal References:

EDUCATION CODE:

35160.5 Extracurricular and Co-curricular Activities; Differential Standards
48980 Parental Notifications
56000 Education of Individuals with Exceptional Needs
56341 Individualized Education Program Team
56345 Elements of the IEP
56393 Recognition of Educational Achievement or Completion of Program
60850-
60856 High School Exit Exam

CODE OF REGULATIONS, TITLE 5

3070 Graduation

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.818 Individuals with Disabilities Education Act

WEBSITES:

CDE: <http://www.cde.ca.gov>

US Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/offices/OSERS>

CLASSIFICATION: INSTRUCTION**Adopted: 00/00/00****Revised: 00/00/00****SUBJECT: INDIVIDUALIZED EDUCATION PROGRAM AND
INDIVIDUALIZED FAMILY SERVICE PLAN/LEAST
RESTRICTIVE ENVIRONMENT/PART C TRANSITION****First Reading: 3/20/15****Second Reading: 4/24/15****Adopted: 5/29/15**

The Governing Board desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law. The Superintendent or designee shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

Individualized Education Program

The West End SELPA districts or LEAs shall have an individualized education program (IEP) or Individualized Family Service Plan (IFSP) in effect for each student with a disability within district jurisdiction. The IEP or IFSP is developed, reviewed and revised for each child with a disability who requires special education and related services in order to benefit from his/her individualized education program in accordance with the federal Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446) and its implementing regulations (34 CFR 300.1-300.818) as well as state laws and SELPA procedures regarding special education.

Members of the IEP Team

According to the Code of Federal Regulations 300.321, the following are required members of the IEP team:

- One or both parents
 - To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian.
- Not less than one regular education teacher or the child if child is or may be participating in the regular education environment.
- Not less than one special education teacher or service provider.
- An administrative representative or designee of the local school district who: (a) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (b) is knowledgeable about the general education curriculum; and (c) is knowledgeable about the availability of resources within the local school district and/or SELPA.
- An individual who can interpret the instructional implications of the evaluation results. This individual may be one of the above school members of the IEP team.

The IEP team may also include:

- Individual(s) who at the discretion of the parents or agency may have special knowledge or expertise regarding the child.
- The child when appropriate. The individual with exceptional needs shall be allowed to provide confidential input to any representative of his or her IEP team.
- When a purpose of the meeting is transition:
 - The student, if he/she is unable or unwilling to attend, the student's input will be solicited.
 - A representative of any other agency that is likely to be responsible for providing or paying for transition services, with the consent of the parent.
- If the student has been placed in a group home by a juvenile court, a representative of the group home.
- At the request of the parent, of a child who was previously served under Part C of IDEA, the Part C coordinator or other representatives to assist in the smooth transition of services.
- A representative mental health provider, if the student is identified as potentially requiring mental health services.

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian consents and the district agrees, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (EC 56341)

Contents of the IEP

The IEP shall be in writing using the forms adopted by the West End SELPA. The IEP shall include, but not be limited to, the following:

1. Present levels of academic achievement and functional performance:
 - The student's strengths, interests and learning preferences
 - The manner in which the student's disability affects their participation in the general education curriculum
 - The parent's concerns regarding educational progress
 - The results of the most recent assessments of the student

2. Measurable annual goals and objectives, including academic and functional goals designed to:
 - Enable the student to participate and make progress in the general education curriculum
 - Address the other educational needs that result from the student's disability
 - Identify how progress will be monitored and when periodic reports of progress will be provided concurrent with the issuance of report cards
3. Consideration of any special factors:
 - Behavior that interferes with learning
 - English learner language needs
 - For visually impaired students, Braille needs
 - For deaf students, language and communication needs
 - Assistive technology devices and services
4. For students age sixteen, or younger if appropriate:
 - Measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
 - Transition services, including the courses of study, needed to assist student in reaching goals
5. The student's participation in state and district assessments, including the need for accommodations and modifications, or alternate assessments. If the IEP team determines the student will participate in an alternate assessment, the IEP must include:
 - The reason the student cannot participate in the regular assessment and
 - A reason that particular alternate assessment is appropriate
6. A statement of the specific special education instruction and related services, supplementary aids and services, and extended school year services, if needed:
 - Based on peer-reviewed research
 - Provided in the least restrictive environment (LRE)

- The projected date for the beginning of such services and modifications, and the anticipated frequency, location, and duration
7. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities.
 8. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, pursuant to EC 56041.5, that will transfer to the student upon reaching age 18.

Development, Review and Revision of the IEP

The IEP team reviews the student's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the student are being achieved and the placement appropriate. The IEP team revises the IEP, as appropriate, to address, among other matters, the following: (1) Any lack of anticipated progress toward the annual goals and in the general curriculum; (2) The results of any reassessment conducted pursuant to EC 56381; (3) Information about the student provided to, or by, the parents/guardian, regarding review of evaluation data; (4) The student's anticipated needs; (5) upon parent or teacher request; and/or (6) Any other relevant matter. The IEP team shall also meet whenever the student has received a formal assessment, and upon request of the parent/guardian or teacher to develop, review, or revise the IEP.

A regular education teacher of the student, as a member of the IEP team, shall participate in the review and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions and supports, as well as supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320.

When a participating agency, other than the LEA, fails to provide transition services described in the student's IEP, the LEA shall reconvene the IEP team to identify alternative strategies to meet the transition service needs for the student set out in the program. (EC 56345.1)

As specified in EC 56157, when the district has placed a foster student or a student residing in a licensed children's institution in a nonpublic school, the district must conduct an annual evaluation as part of the IEP process to determine whether the placement is the least restrictive environment (LRE) that is appropriate to meet the student's needs.

When a student is placed in a residential placement by an expanded IEP team, the IEP shall be reviewed at least every six months, by the full IEP team. The IEP review must consider the case progress, continuing need for out-of-home placement, the extent of compliance with the IEP and progress toward alleviating the need for out-of-home care. (EC 56043)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the district may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The district should identify who is authorized to agree to an amendment of the IEP outside of an IEP meeting. The IEP team shall be informed of any such changes. Upon request, the district shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (34 CFR 300.324)

Least Restrictive Environment

The appropriate special education program and related services in the Least Restrictive Environment (LRE) for each student with a disability is determined by an IEP team. The IEP team shall consider the individual student's unique needs, including present levels of academic achievement and functional performance, goals, and the configuration of special education support required to implement the IEP. The IEP team shall determine the special education and related services required to enable the student to be involved in and progress in the general education curriculum and/or to meet each of the student's other educational needs that result from the disability.

It shall be the policy of the LEAs that to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled. The IEP team shall consider the educational and nonacademic benefits of placing the student in a general education class and shall determine what support services would be needed in order to support this placement. All placement decisions should promote maximum interaction between students with disabilities and their nondisabled peers, in a manner that is appropriate to the needs of both. Special education services shall be provided outside the general education classroom only when the IEP team determines that the student's individual needs cannot be appropriately met in the general education classroom.

Close cooperation of all school personnel is encouraged by district and site administrators to facilitate opportunities for social interaction between individuals with disabilities and nondisabled individuals.

Students with disabilities shall receive their education in chronologically age-appropriate general education classrooms at neighborhood school sites unless there is an educationally compelling reason why this cannot be accomplished. Special classes, separate schooling, or other removal of a student with disabilities from the general education environment, occurs only when the nature or severity of the disability of the student is such that education in general classes with the use of supplemental aids and services cannot be achieved satisfactorily. When the student's needs are so intense and/or complex that the local district cannot provide free appropriate public education (FAPE) for the student, placement in another West End SELPA district program, neighboring SELPA, or nonpublic school will be provided. If services in a setting other than the student's neighborhood school are determined necessary, students are served in the nearest appropriate program to their home school.

Parents/guardians shall have the right to approve the student's placement in a special education program, and written parental consent shall be obtained before any such placement is made unless a due process hearing officer authorizes the placement. A parent/guardian may decline initial placement in all special education services for his/her student, or withdraw consent for all special education services at a future time. Upon parental revocation of consent for all special education services, the student shall be considered a general education student. Once an IEP team has determined an appropriate placement with parent/guardian approval, the placement remains in effect unless it is modified through the IEP process, mutual agreement, parent revokes consent, or a due process hearing officer order.

Timelines for the IEP and for the Provision of Services

At the beginning of the school year, the district shall have an IEP in effect for each student with a disability within district jurisdiction.

The district shall ensure that a meeting to develop an initial IEP is conducted within 30 days of a determination that a student needs special education and related services. The district shall also ensure that, as soon as possible following the development of the IEP, special education service and related services are made available to the student in accordance with his/her IEP.

An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 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/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year for a student for whom a referral has been made 30 days or less prior to the end of the regular school year. (EC 56344)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request.

A regular education or special education teacher may request a review of the classroom assignment of a special education student by submitting a written request to the district or LEA superintendent or designee. The district or LEA superintendent or designee shall consider the request within 20 days of receiving it, not counting days in July or August or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction and/or related services, the district or LEA superintendent or designee shall convene an IEP meeting, which shall be held within 30 days of the district's LEA superintendent or designee's review, not counting days in July or August or days when school is off track, unless the student's parent/guardian consents to an extension of time.

The district shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The district shall also ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

An LEA shall seek to obtain informed consent from the parent/guardian of the student before providing special education and related services to the student. If the parent of the student refuses to consent to the initiation of services, the district shall not provide the services, nor may it use the due process procedures to override consent. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student.

If the district determines that a part of the proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student FAPE, a due process hearing shall be initiated. While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the district agree otherwise. (EC 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent in writing, for the continued provision of special education services, the superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The district shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (34 CFR 300.300, 300.503)

Once the district has ceased providing special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

At each IEP meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321.

Part C, Transition

It shall be the policy of the West End SELPA and its member districts that a transition process for a child who is participating in Early Intervention Programs (IDEA, Part C) with an IFSP is begun prior to a toddler's third birthday. The transition process shall be smooth, timely and effective for the child and family.

The service coordinator, six months before the third birthday of the toddler receiving early intervention services, shall do the following:

1. Notify the parent of a toddler who may be eligible for special education services under Part B of IDEA that transition planning will occur within the next three to six months.
2. Notify the local education agency where the toddler resides that there will be an Individualized Family Services Plan (IFSP) meeting requiring the attendance of an agency representative, before the toddler is two years nine months old, or at the discretion of all parties, up to six months before the toddler turns three years old.

Within 30 days following the notification of the parent and the local education agency, the family service coordinator and the local education agency shall agree on the date for the IFSP Transition Planning Meeting. A written Transition Plan, covering each step of the process, shall be developed by the service coordinator.

All Part C program providers, with parental consent, shall transmit information about the child to the local education agency. This information shall include evaluation and assessments and a copy of the IFSP, and is sent no later than the time the toddler is two years nine months old. The local education agency shall then complete any additional assessments necessary to determine eligibility for special education services under Part B. These steps shall include sending a packet to the parent acknowledging the receipt of the referral and requesting a signed permission to assess.

An IEP shall be scheduled by the local education agency of residence to take place prior to the child's third birthday so that services under Part B may commence by that date or, if school is not in session, by the date that school is next in session, including Extended School Year.

Legal References:

EDUCATION CODE

- 51225.3 Requirements for high school graduation and diploma
- 56021.1 Definition of Consent
- 56031 Special Education (Specially Designed Instruction)
- 56055 Rights of Foster parents pertaining to foster child's education
- 56136 Guidelines for low incidence disabilities areas
- 56195.8 Adoption of policies
- 56205 (a)(9)
- 56206 Specialized Equipment and Services
- 56303 Consideration of Regular Education Program Resources
- 56321 Development or revision of IEP
- 56321.5 Notice to include right to electronically record IEP proceedings
- 56331 Referral of Pupil to a Community Mental Health Service
- 56340.1-56347 Instructional Planning and Individualized Education Program
- 56350-56352 IEP for Visually Impaired Students
- 56363 Designated Instruction and Services/Related Services
- 56380 IEP Team Reviews; Notice of Right to Request
- 56381 Reassessment
- 56390-56392 Certificate of Completion, Special Education
- 56429
- 56500-56509 Procedural Safeguards
- 60640-60649 California Assessment of Student Performance and Progress
- 60850 High School Exit Examination, Students with Disabilities
- 60852.3 High School Exit Examination, Exemption for Class of 2006

STATE BOARD POLICY

Requirement 10/86

17 CCR 52140

FAMILY CODE

- 6500-6502 Age of Majority

GOVERNMENT CODE

- 7572.5 Seriously Emotionally Disturbed Child, Expanded IEP Team

WELFARE AND INSTITUTIONS CODE

- 300 Children Subject to Jurisdiction
- 601 Minors Habitually Disobedient
- 602 Minors Violating Law Defined as a Crime

CODE OF REGULATIONS, Title 5

- 853-853.5 State Assessments, Accommodations
- 1215.5-1218 High School Exit Examination, Accommodations for Students with Disabilities
- 3021-3029 Identification, Referral and Assessment
- 3040-3043 Instructional Planning and the Individualized Education Program; Extended School Year
- 3069 Annual Review of Individualized Education Program

UNITED STATES CODE, Title 20

- 1232g Family Education Rights and Privacy Act of 1974
- 1400-1482 Individuals with Disabilities Education Act
- 1412 State Eligibility
- 1414 (d)(1) Individualized Education Programs

FEDERAL REFERENCES

CODE OF FEDERAL REGULATIONS, Title 34

300.1-300.818 Individuals with Disabilities Education Act
300.9 Consent
300.300 (b)(4) Revocation of Consent
300.321 IEP Team
300.322 Parent Participation
300.324 Development, Review, and Revision of IEP
300.340-300.349 Individualized Education Programs
300.504 Procedural Safeguards Notice
300.500-300.556 Least Restrictive Environment

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 157 (2002)

COURT DECISIONS

Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 327 F.3d 773
Schaffer v. Weast (2005) 125 S. Ct. 528
Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072
Sacramento City School District v. Rachel H. (9th Circuit, 1994) 14 F.3d 1398

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/about/offices/list/osers/osep>

CLASSIFICATION: INSTRUCTION

Adopted: 00/00/00

Revised: 00/00/00

SUBJECT: INDIVIDUALIZED EDUCATION PROGRAM AND
INDIVIDUALIZED FAMILY SERVICE PLAN/LEAST
RESTRICTIVE ENVIRONMENT/PART C TRANSITION

First Reading: 3/20/15

Second Reading: 4/24/15

Adopted: 5/29/15

At the beginning of each school year, the member districts of the West End SELPA shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 34 CFR 300.323)

Members of the IEP Team

The IEP team for any student with a disability shall include the following members:

1. One or both of the student's parents/guardians and/or a representative selected by them
2. If the student is or may be participating in the regular education program, at least of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers

The regular education teacher shall, to the extent appropriate, participate in the development, review and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320.

3. At least one of the student's special education teachers or, where appropriate, special education providers
4. A representative of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities
 - b. Knowledgeable about the general education curriculum
 - c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources (cf. 0430 Comprehensive Local Plan for Special Education)
5. An individual who can interpret the instructional implications of assessment results (this individual may already be a member of the team as described in items #2-4 above or in item #6 below)

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.
7. Whenever appropriate, the student with a disability. In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)
8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech/language pathologist, or remedial reading teacher

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years old or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)
2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345 (a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)
 - a. The student, regardless of his/her age

If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.
 - b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414 (d)(1)(D); 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414 (d)(1)(C); 34 CFR 300.321)

Contents of the IEP

The IEP shall include, but not be limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
 - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
 - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
 - c. For a student with a disability who takes 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 student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
 - b. Meet each of the student's other educational needs that result from his/her disability
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A state of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities

- c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP
5. An explanation to the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
 - 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 courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation
2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English
3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)
4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education

program in a public school for any part of the school day, including descriptions of activities intended to:

- a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
 - b. Support the transition of the student from the special education program into the regular education program
5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with guidelines pursuant to Education Code 56136

Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56341.1, 56345; 20 USC 1414 (d)(3)(A); 34 CFR 300.324)

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

However, such instruction need not be included in the IEP if the IEP determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

Provision of Special Education and Related Services

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414 (d)(4); 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate
 - b. The results of any reassessment conducted pursuant to Education Code 56381
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305 (a)(2) and Education Code 56381 (b)
 - d. The student's anticipated needs
 - e. Any other relevant matter

3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off-track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414 (d); 34 CFR 300.324)

If a student with a disability residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the Superintendent or designee shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

When an IEP calls for a residential placement as a result of a review by an IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of the case progress, the continuing need for out-of-home placement, the extent of compliance with the IEP, and progress toward alleviating the need for out-of-home care. (Education Code 56043)

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414 (d)(3)(A); 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414 (d)(3)(D); 34 CFR 300.324)

Audio Recording of IEP Team Meetings

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling a meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform them of:
 - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341 (b)(6)
 - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414 (d)(1)(A)(i)(VIII), and 34 CFR 300.320 (b)

2. An indication that the student is invited to the IEP team meeting
3. Identification of any other agency that will be invited to send a representative

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

The parent shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. In cases where the Superintendent or designee is unable to convince the parent/guardian that he/she should attend, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

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

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meetings, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414 (a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415 (f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be

initiated in accordance with 20 USC 1415 (f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

The Superintendents' Council desires to protect the rights of students with disabilities in accordance with the procedural safeguards set forth in state and federal law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

It shall be the policy of the LEAs that children with disabilities and their parents shall be afforded all procedural safeguards throughout the provision of a free appropriate public education (FAPE), including the identification, evaluation, and placement process. The LEAs shall protect the rights of students with disabilities in accordance with the procedural safeguards set forth in state and federal law. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation. Procedural Safeguards are provided by CDE, at least once a school year, including the right to a due process hearing for any dispute related to identification, assessment or educational placement of a child or the provision of a free, appropriate public education to the child. In order to protect the rights of students with disabilities and their parents/guardians, the West End SELPA and its member districts shall follow all procedural safeguards as set forth in law.

Procedural Safeguards

A copy of the procedural safeguards shall be made available to parents/guardians of students with a disability once each school year, and:

- Upon initial referral or parent/guardian request for assessment
- With the provision of any assessment plan
- Upon receipt of the first state compliance complaint and upon receipt of the first due process complaint in a school year
- When a decision is made to remove a student because of a violation of a code of conduct which constitutes a change of placement
- Upon request by a parent/guardian.

The procedural safeguards notice shall be in a language easily understood by the general public and in the parent/guardian's native language or other mode of communication used by them, unless to do so is clearly not feasible. If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that the notice is translated orally or by other means and that the parent/guardian understands the contents of the notice.

The District may place a copy of the procedural safeguards notice on the district's website.

A student shall not be required to participate in all or part of any special education program unless the parent/guardian is first informed in writing of the facts that make participation in the program necessary or desirable and the contents of the IEP, and the parent/guardian consents, in writing, to all or part of the IEP after receiving this notice. If the parent/guardian does not consent to all of the components of the IEP, then those components of the IEP to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

Prior written notice shall be given by the public agency to parents or guardians of an individual with exceptional needs, or to the parents and guardians of a child upon initial referral for assessment, and when the public agency proposes to initiate or change, or refuses to initiate or change, the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child, and before the student graduates from high school with a regular diploma thus resulting in a change of placement. (Education Code 56500.4)

A parent/guardian and/or the district may initiate due process hearing procedures whenever:

- There is a proposal to initiate or change the student's identification, assessment or educational placement or the provision of FAPE to the student
- There is a refusal to initiate or change the student's identification, assessment or educational placement or the provision of FAPE to the student
- The parent/guardian refuses to consent to an assessment of his/her child
- There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, in accordance with EC 56502. A due process complaint must be filed within two years of the date that the parent/guardian or district know or should have known about the situation that forms the basis of the complaint.

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the results of the hearing.

A district shall respond in writing to the parent/guardian's due process complaint within ten days of receipt. A district shall convene, prior to the opportunity for an impartial due process hearing, a resolution session, which is a meeting with the parents and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process hearing request (Education Code 56501.5). The party requesting the due process hearing shall not be allowed to raise issues at the hearing that were not raised in the notice filed under this section unless the other party agrees otherwise (Education Code 56502).

While a due process hearing is pending, the district or LEA superintendent or designee may choose to meet informally with the parent/guardian pursuant to Education Code 56502 or may hold a mediation conference pursuant to Education Code 56500.3. If a resolution is reached to resolve the due process issue(s), the parties shall execute a legally binding agreement that sets forth the resolution. The written agreement shall be signed by both the parent and the representative of the agency who has the authority to bind such agency and shall be enforceable in any state court of competent jurisdiction or in a federal district court of the United States (Education Code 56500.0). If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. (Education Code 56505)

Parent/Guardian Notice

The district or LEA superintendent or designee shall send parents/guardians notice of the IEP team meetings early enough to ensure that they will have an opportunity to attend. This notice shall: (34 CFR 300.322).

1. Indicate the purpose, time and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform the parents/guardians of the provisions of 34 CFR 300.321(a)(6) and (c), relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student
4. For students age 16, or younger if appropriate:
 - a. Indicate that the purpose of the meeting is the consideration of needed transition services for the student as required by 34 CFR 300.320(b)(2)
 - b. Indicate that the district will invite the student to the IEP meeting
 - c. Identify any other agency that will be invited to send a representative

Complaints

West End SELPA and member districts shall follow West End SELPA policies and regulations that identify the person(s), employee(s), agency position(s) or unit(s) responsible for ensuring compliance with state and federal law and for receiving and investigating complaints alleging noncompliance or discrimination.

The Superintendent or designee shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures. Parents may file a compliance complaint regarding special education through the California Department of Education Special Education Division. Complaints concerning compliance with state or federal law regarding special education may also be addressed in accordance with the district's uniform complaint procedures.

Legal References:

EDUCATION CODE

- | | |
|-------|---|
| 56000 | Education for Individuals with Disabilities |
| 56001 | Provision of the Special Education Programs |

56020-56035 Definitions
 56195.7 Written Agreements
 56195.8 Adoption of Policies for Programs and Services
 56300-56385 Identification and Referral, Assessment
 56345.1 Transition Services Needs
 56346 Informed consent
 56440-56447.1 Programs for Individuals Between the Ages of Three and Five Years
 56500-56509 Procedural Safeguards, Including Due Process Rights
 56500.3 Prehearing Mediation conference
 56500.4 Prior Written Notice
 56501.5 Resolution Session
 56502 Due Process Hearing Requests
 56503 Mediation Conference
 56505 State Hearings
 56507 Attorney Fees to prevailing party
 56600-56606 Evaluation, Audits and Information
 UNITED STATES CODE
 CODE OF REGULATIONS, TITLE 5
 3000-3100 Regulations Governing Special Education
 4600-4671 Complaint Procedures
 UNITED STATES CODE, TITLE 20
 1232g Family Education Rights and Privacy Act of 1974
 1400-1482.1 Individuals with Disabilities Education Act
 UNITED STATES CODE, TITLE 29
 794 Section 504 of the Rehabilitation Act
 UNITED STATES CODE, TITLE 42
 11434 Homeless Assistance
 CODE OF FEDERAL REGULATIONS, TITLE 34
 99.10-99.22 Inspection, Review and Procedures for Amending Education Records
 104.36 Procedural Safeguards
 300.1-300.818 Assistance to States for the Education of Students with Disabilities, especially:
 300.500-300.520 Procedural Safeguards and Due Process for Parents and Students

COURT DECISIONS

Winkelman v. Parma City School District, (2007) 550 U.S. 516

MANAGEMENT RESOURCES:

FEDERAL REGISTER

Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029

WEBSITES:

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osep>

Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time: (20 USC 1415 (c); 34 CFR 300.102, 300.300, 300.503; Education Code 56500.4, 56500.5)

1. Before the district initially refers the student for assessment
2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. Before the district refuses to initiate or change the student's identification, assessment, educational placement, or the provision of FAPE to the student
4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child

This notice shall include: (20 USC 1415 (c); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action
4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained
5. Sources for parents/guardians to obtain assistance in understanding these provisions
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

7. A description of any other factors relevant to the district's proposal or refusal

Procedural Safeguards Notice

A procedural safeguards notice, provided by the California Department of Education, shall be made available to parents/guardians of students with disabilities once each school year and: (20 USC 1415 (d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint in a school year
3. Upon receipt of the first due process hearing request in a school year
4. In accordance with the discipline procedures pursuant to 34 CFR 300/503 (h), when a decision is made to remove a student because of violation of a code of conduct constituting a change of placement
5. Upon request by a parent/guardian

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415 (d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation
2. Prior written notice
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services
4. Access to educational records
5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures
6. The availability of mediation
7. The student's placement during the pendency of any due process complaint
8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations
11. State-level appeals
12. Civil actions, including the time period in which to file those actions
13. Attorney's fees

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication
2. The parent/guardian understands the content of the notice
3. There is written evidence that items #1 and #2 have been satisfied

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC 1415 (d))

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR 300.505)

Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415 (b); Education Code 56501)

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
3. The parent/guardian refuses to consent to an assessment of his/her child
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the part requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415 (b); 34 CFR 300.508; Education Code 56502)

1. The student's name
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student
3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

District's Response to Due Process Complaints

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint. (20 USC 1415 (c)(1); 34 CFR 300.508)

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint containing: (20 USC 1415 (c)(1); 34 CFR 300.508):

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected

3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issues(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

CLASSIFICATION: Instruction**SUBJECT:** NONPUBLIC, NONSECTARIAN SCHOOL AND
AGENCY SERVICES FOR SPECIAL EDUCATION**Adopted:** 00/00/00**Revised:****First Reading:** 9/25/15**Second Reading:** 12/11/15**Adopted:** 1/22/16

The Superintendents' Council recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. It further recognizes that public schools cannot provide services to meet the needs of all exceptional children. Some children will need such individualized and specialized services as can only be provided outside public education. When the district is unable to provide direct special education and/or related services to students with disabilities, the West End SELPA may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs as determined through the individualized education program (IEP) process. Nonpublic school services are an instructional component of the WESELPA administrative unit. Nonpublic school services will be provided only when the IEP team determines that no appropriate public education alternative placements exist to meet the individual student's needs.

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation. When entering into agreements with nonpublic, nonsectarian schools or agencies, the Council shall consider the needs of the individual student and the recommendations of the IEP team. Services will be provided in accordance with the NPS or NPA Master Contract and Individual Services Agreement (ISA). The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

In order to ensure that the student is being provided such a program within the least restrictive environment, the IEP team shall utilize such nonpublic school services only after exploring all public school program alternatives. After thoroughly reviewing available services, and if all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include a West End SELPA Program Manager or West End SELPA Program Specialist and District Special Education Director or representative. When the IEP Team determines that nonpublic school services are required, a contract for such services shall be developed and entered into by the West End SELPA Administrator. Such contracts will be developed only after the parent has agreed to the placement.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 5619.8, 56342.1)

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366. In addition,

the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

The West End SELPA will ensure that the nonpublic school meets the following standards:

- The agency has adequately trained personnel
- The agency has appropriate facilities and equipment
- The agency meets local health, fire, and safety standards

In most areas, the West End SELPA will monitor the progress of pupils in nonpublic school services. This review will consist of evaluating nonpublic school quarterly reports of student progress on goals and objectives established by the IEP team in written instructional plans, report cards and incident reports. During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall remain accountable for monitoring the student's progress towards meeting the goals identified in each student's IEP.

Every attempt will be made to assure pupil progress so that a pupil may ultimately be able to return to some form of public school program. The West End SELPA Program Manager or designee shall be responsible to monitor the progress of children placed in nonpublic school programs. This Program Manager or designee shall also act as a liaison between the West End SELPA and the nonpublic school in all matters concerning a student's placement.

Individuals with exceptional needs may be enrolled concurrently in both public and nonpublic school services, provided one is the major enrollment and the other is supplemental. This determination will be made by the West End SELPA/Individual Education Program team based upon the educational needs of the exceptional student and will be provided only when this arrangement best meets these needs.

Students placed in nonpublic secondary schools must complete graduation requirements of their districts of residence, which will issue a diploma. Students will be able to participate in their districts' graduation ceremony. Students who are attending a non-public school out-of-state, and are eligible to graduate from high school, can choose to receive a diploma from the state where they are attending non-public school.

Students placed in a nonpublic school by their parents or guardians may be evaluated for special education eligibility and services by public school staff upon referral in the manner previously described for all students.

Rationale for Nonpublic School Referral

- Must be documented that there is no available public program that can appropriately meet the student's needs, even with modification.
- Must be documented that the Local Education Agency (LEA) attempted supports and services.

- Must be documented the impact of the attempted supports and services.
- Must be documented that no existing contracting agency (e.g. CCS, Regional Center) can meet the student's needs appropriately.
- Must be documented that the service is required for the student to benefit from an educational program.
- All public resources must be considered and found to be inappropriate.
- Must have statement on IEP indicating, "Student should be considered for a more restrictive placement." District should not indicate the name of a specific non-public school.

In accordance with Education Code 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, 56366.3, and 56366.6.

Legal References:

EDUCATION CODE

| | |
|-------------|---|
| 56034-56035 | Definitions of nonpublic, nonsectarian school and agency |
| 56042 | Placement not to be recommended by attorney with conflict of interest |
| 56101 | Waivers |
| 56163 | Certification |
| 56168 | Responsibility for education of student in hospital or health facility school |
| 56195.8 | Adoption of policies |
| 56342.1 | Individualized Education Program; placement |
| 56360-56369 | Implementation of Special Education |
| 56711 | Computation of state aid |
| 56740-56743 | Apportionments and reports |
| 56760 | Annual budget plan; service proportions |
| 56775.5 | Reimbursement of assessment and identification costs |

FAMILY CODE

| | |
|-----------|---|
| 7911-7912 | Interstate compact on placement of children |
|-----------|---|

GOVERNMENT CODE

| | |
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| 7570-7587 | Interagency responsibilities for providing services to children with disabilities, especially: |
| 7572.55 | Seriously emotionally disturbed child; out-of-state placement |

WELFARE AND INSTITUTIONS CODE

| | |
|-------|--|
| 362.2 | Out-of-home placement for IEP |
| 727.1 | Out-of-state placement of wards of court |

CODE OF REGULATIONS, TITLE 5

| | |
|-----------|--|
| 3001 | Definitions |
| 3060-3070 | Nonpublic, nonsectarian school and agency services |

UNITED STATES CODE, TITLE 20

| | |
|-----------|---|
| 1400-1487 | Individuals with Disabilities Education Act |
|-----------|---|

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools
COURT DECISIONS
Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/about/offices/list/osers>

CLASSIFICATION: Instruction**SUBJECT:** NONPUBLIC, NONSECTARIAN SCHOOL AND
AGENCY SERVICES FOR SPECIAL EDUCATION**Adopted:** 00/00/00**Revised:** 00/00/00**First Reading:** 9/25/15**Second Reading:** 12/11/15**Adopted:** 1/22/16

Master Contract

Every master contract with a nonpublic, nonsectarian school or agency shall include an individual services agreement (ISA) negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for the provision of special education and related services; including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement in his/her individual services agreement. (Education Code 56366)

Placement and Services

The Superintendent or Designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

Elementary School Districts

Prior to the annual review of a student's IEP, the Superintendent or designee shall notify any high school district to which the student may transfer of the student's enrollment in a nonpublic, nonsectarian school or agency. (5 CCR 3069)

When a special education student meets the district requirements for completion of the prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

Out of State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

Referral Process for Nonpublic School Consideration

1. If all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include the West End SELPA Program Manager or West End SELPA Psychologist. In order to schedule a meeting, the referring district shall submit the following to the West End SELPA Alternative Services Unit office:
 - Referral for Placement Consideration cover sheet (WESELPA 014) signed by the district office
 - Current IEP with goals and objectives
 - Current psycho-educational report
 - Assessment data supporting a change in placement (observations, academic progress monitoring, behavioral intervention data, FBA, private evaluations)
 - Immunization record
 - Behavior Intervention Plan (BIP)
 - Other agency reports, if applicable
 - Transcripts for high school age students, if on diploma track
 - Vision/Hearing screening
 - Signature required – District director of special education
2. The West End SELPA Program Manager or West End SELPA Psychologist will review the student's file and confer with referring staff as needed.
3. The West End SELPA Program Manager or West End SELPA Psychologist will confer with appropriate nonpublic schools to determine placement openings, admission procedures, and availability of staff to attend the IEP meeting.

4. At the IEP meeting, team members will review data relative to assessment, program needs, and appropriate program options, both public and nonpublic.
5. Based on the information presented, the team may recommend any of the following:
 - Additional assessment, modifications, and/or related services.
 - A district or county operated program within the West End SELPA.
 - A public program outside the West End SELPA.
 - State schools.
 - Nonpublic schools.

The school District of residence is responsible for coordinating and completing any triennial assessments.

Legal References:

EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian school and agency
 56042 Placement not to be recommended by attorney with conflict of interest
 56101 Waivers
 56163 Certification
 56168 Responsibility for education of student in hospital or health facility school
 56195.8 Adoption of policies
 56342.1 Individualized Education Program; placement
 56360-56369 Implementation of Special Education
 56711 Computation of state aid
 56740-56743 Apportionments and reports
 56760 Annual budget plan; service proportions
 56775.5 Reimbursement of assessment and identification costs

FAMILY CODE

7911-7912 Interstate compact on placement of children

GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to children with disabilities, especially:
 7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP
 727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions
 3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers>

CLASSIFICATION: Instruction

Adopted: 09/07

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

SUBJECT: APPOINTMENT OF SURROGATE PARENT FOR
STUDENTS IN SPECIAL EDUCATION

In order to protect the rights of students with disabilities, the Local Education Agency (LEA) Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities as necessary in accordance with law.

Districts and/or Special Education Local Plan Areas (SELPA) are mandated to adopt procedures to protect the rights of students whenever:

1. The parents of the student are not known, and/or
2. The district cannot, after reasonable efforts, locate the parents' whereabouts, and/or
3. The student is a dependent or ward of the court and if the court has specifically limited the right of the parent or guardian to make educational decisions for the child

When the student is a ward of the court, the district's procedures must also include an assignment of an individual to act as a surrogate for the parents. (20 U.S.C. 1415 (b)(2)). The Superintendent or designee shall develop procedures for recruiting, training, and assigning adults to serve as surrogate parents. When appointing a surrogate parent, the local educational agency shall, as a first preference, select a relative caretaker, foster parent, or court-appointed special advocate, if appropriate. If none of these individuals is willing and/or able to act as a surrogate parent, the district shall select the surrogate parent of its choice. Upon a determination that a student needs a surrogate parent, the LEA will make reasonable efforts to ensure that the surrogate is appointed within 30 days. Before individuals are appointed as surrogate parents, the Superintendent or designee shall ensure that they have a criminal background screening completed and have demonstrated interest in working with children with disabilities, sensitivity to ethnic and cultural factors, and the ability to work cooperatively with others. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

The surrogate parent shall serve as the child's parent and shall have the rights relating to the identification, assessment, instructional planning, educational placement, reviewing, and revising the Individualized Education Program (IEP), and in all other matters relating to the provision of a free appropriate public education for the child. This representation shall include the provision of written consent to the IEP including nonemergency medical services, mental health assessment and treatment services, and occupational or physical therapy. The surrogate may sign any consent relating to the IEP purposes.

Legal References:

EDUCATION CODE

- 56028 Parent
- 56050 Surrogate parents
- 56055 Rights of foster parents

GOVERNMENT CODE

- 7570-7587 Interagency responsibilities for providing services to disabled children, especially:
- 7579.5 Surrogate parent; appointment; qualifications; liability
- 7579.6 McKinney-Vento Homeless Assistance Act

WELFARE AND INSTITUTIONS CODE

- 300 Children subject to jurisdiction
- 361 Limitations on parental control
- 601 Minors habitually disobedient or truant
- 602 Minors violating laws
- 726 Limitations on parental control

UNITED STATES CODE, TITLE 20

- 1400-1482 Individuals with Disabilities Education Act, especially:
- 1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

- 11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

- 300.30 Definition parent
- 300.519 Surrogate parents

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers/index.html>

CLASSIFICATION: INSTRUCTION

SUBJECT: APPOINTMENT OF SURROGATE PARENT FOR
STUDENTS IN SPECIAL EDUCATION

Adopted: 00/00/00

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Conditions Necessitating a Surrogate

The Superintendent or designee shall appoint a surrogate parent to represent a student with a disability under one or more of the following circumstances: (Government Code 7579.5; 20 U.S.C. 1415(b)(2); 34 C.F.R. 300/519)

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601, or 602 and all of the following conditions are satisfied:
 - a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)
 - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 U.S.C. 11434a
5. The student has reached the majority but has been declared incompetent by a court of law.

Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 U.S.C. 1412(b)(2)(B))

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a

new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

The Superintendent or designee shall ensure that individuals to be appointed as surrogate parents have passed a criminal background check and have demonstrated interest and skill in working with students with disabilities.

Surrogate parents shall have no interests that conflict with the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 U.S.C. 1400-1482 and 34 C.F.R. 300.1-300.818. The surrogate parent may represent the student in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7587. (Education Code 56050)

Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board policy and administrative regulation.

Termination of Appointment

The Superintendent or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education (Government Code 7579.5)
2. When the student reaches 18 years of age, unless he/she chooses not to make education decisions for himself/herself or is deemed by a court to be incompetent (Government Code 7579.5)
3. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)
4. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)
5. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above

Legal References:

EDUCATION CODE

| | |
|-------|--------------------------|
| 56028 | Parent |
| 56050 | Surrogate parents |
| 56055 | Rights of foster parents |

GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to disabled children, especially:
7579.5 Surrogate parent; appointment; qualifications; liability
7579.6 McKinney-Vento Homeless Assistance Act

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction
361 Limitations on parental control
601 Minors habitually disobedient or truant
602 Minors violating laws
726 Limitations on parental control

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:
1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

300.30 Definition parent
300.519 Surrogate parents

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:
<http://www.ed.gov/about/offices/list/osers/index.html>

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

BP 6159.4

CLASSIFICATION: Instruction

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 3/18/16

Second Reading: 4/22/16

Adopted: 4/22/16

SUBJECT: Behavioral Interventions for Special Education Students

In the case of a special education student whose behavior impedes his/her learning or that of others, appropriate positive behavior interventions, strategies, and support will be developed to address the behavior, including, when appropriate, the development of a behavior intervention plan (BIP).

The Superintendent or designee shall ensure that staff is informed of the West End SELPA's policy and regulations governing the systematic use of behavioral and emergency interventions.

Legal References:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Assessments; notice of parental rights; consent of parents

56500 - 56508 Procedural safeguards; including due process rights

56520 - 56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5

3051.23 Behavioral intervention

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

UNITED STATES CODE, TITLE 34

300.1 - 300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

CLASSIFICATION: Instruction**SUBJECT: Behavioral Interventions for Special Education
Students****Adopted: 00/00/0000****Revised: 00/00/0000****First Reading: 3/18/16****Second Reading: 4/22/16****Adopted: 4/22/16**

A special education student's behavior shall be subject to the disciplinary measures applicable to all students.

When an individualized education program (IEP) team determines that a child's behavior impedes his/her learning or that of others, the IEP team shall consider, if appropriate, positive behavior interventions, strategies, and supports to address the behavior, including the development and implementation of a behavior intervention plan (BIP).

Behavior Intervention Plans (IDEA)

A functional behavior assessment (FBA) and the behavior intervention plan (BIP) resulting from that assessment shall be based on methodology individually designed for the individual with exceptional needs and the behavior being addressed. A functional behavior assessment may utilize review of records, interviews, behavior assessment scales, etc., and may include observation of pupil behavior and/or environment conditions, to analyze retrospectively the function of the specific behavior may have served for the pupil.

A functional behavior assessment shall be conducted for behavior that has resulted in disciplinary suspension beyond ten (10) consecutive days in a school year or ten (10) cumulative days in a school year that constitute a pattern as described in 34 C.F.R. § 300.536(a)(2). When a manifestation determination results in a determination that the conduct was a manifestation of the child's disability, pursuant to 34 C.F.R. 300.530(f)(1), the LEA must conduct a FBA and implement a BIP based on the results of the FBA. Alternatively, if a BIP based on an FBA already exists, the IEP team must review and modify any pre-existing BIP as necessary to address the behavior.

Positive behavior strategies and support, as required by clause (i) of subparagraph (B) of paragraph (3) of subsection (d) of Section 1414 of Title 20 of the United States Code, hereafter referred to as behavior intervention plan (BIP), shall be considered by the IEP team whenever behavior is present that the team believes is impeding the learning of the pupil or his/her peers, including following a functional behavioral assessment in which the IEP team finds that instructional and/or behavioral approaches are warranted to address problem behavior.

If a behavior intervention plan is not effective, the IEP team may either request a reevaluation of the functional behavior assessment or continue modifications to the behavior intervention plan until success is attained.

All staff working with the pupil shall be informed of the provisions and have access to a copy of the BIP.

Behavioral and Emergency Interventions

Significant behavioral challenges (i.e., the student is a significant danger to him/herself or others, or s/he employs behaviors which are self-injurious, assaultive, or cause property damage) and other severe behavior challenges that are pervasive and maladaptive for which instruction/behavioral approaches specified in the student's IEP are found to be ineffective shall be addressed through the systematic use of behavioral and emergency interventions as provided below.

Behavioral intervention is a 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 change, replace, modify, or eliminate a targeted behavior in order to provide the individual 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 environment, pursuant to the student's IEP.

All behavioral interventions shall be administered in a way that respects the individual's human dignity and personal privacy; shall be used in consideration of his/her physical freedom, social interaction, and individual choice; and shall ensure a pupil's right to placement in the least restrictive educational environment.. (EC 56520(b).)

A behavioral emergency is the demonstration of a significant behavioral challenge which has not been previously observed and for which a behavioral intervention plan has not been developed, or for which a previously designed behavioral intervention is not effective.

Functional Behavior Assessment (FBA)

When a special education student's significant behavioral challenge(s) have an adverse impact on their learning or the learning of other pupils, or both, the student's IEP team shall determine whether the instructional/behavioral approaches specified in the student's IEP and BIP, if appropriate, have proven ineffective. If the IEP team finds that these approaches have been ineffective, a functional behavior assessment may be conducted.

Before a functional behavior assessment begins, parents/guardians shall be notified and consent obtained. No such assessment shall preclude a parent/guardian from requesting a functional behavior assessment on the basis of language and speech disorders or specific learning disabilities. The functional behavior assessment shall be conducted by, or be under the supervision of, a person designated by the district as qualified in behavior analysis with an emphasis on positive behavior interventions.

Behavioral Intervention Plan

A Behavioral Intervention Plan (BIP) is a written document that may be developed when the student exhibits a significant behavioral challenge that has an adverse impact on or interferes with the implementation of the student's IEP. Based on the functional assessment, the IEP team shall meet to determine whether a BIP is needed. If such a plan is needed, the IEP team may include a district designee knowledgeable in behavior intervention, qualified staff knowledgeable of the student's health needs, and others with expertise as deemed necessary by the parent/guardian, district, or West End Special Education Local Plan Area (West End SELPA). This team shall develop a written behavioral intervention plan which includes:

1. A summary of relevant and determinative information gathered from the functional behavior assessment;
2. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
3. The student's goals specific to the behavioral intervention plan;
4. A detailed description of interventions to be used and the circumstances for their use;
5. Specific schedules for recording the frequency of intervention use and the frequency of the targeted and replacement behaviors, including specific criteria for discontinuing an intervention for lack of effectiveness or replacing it with a specified and identified alternative;
6. Criteria by which the procedure will be faded or phased-out, or less intense/restrictive intervention schedules or technique that will be used;
7. Those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings;
8. Specific dates when the IEP team will periodically review the efficacy of the program; and
9. The frequency of the consultation to be provided by the behavioral intervention case manager to the staff and parents/guardians who are responsible for implementing the plan.

Based on the results of the functional behavior assessment, interventions specified in the plan may include:

1. Altering the identified antecedent event to prevent the occurrence of the behavior;
2. Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior;
3. Teaching the student adaptive behaviors which ameliorate negative conditions that promote the display or inappropriate behaviors; and/or
4. Manipulating the consequences for the display of inappropriate behaviors and alternative, acceptable behaviors, so that the alternative behaviors more effectively produce desired outcomes.

Acceptable responses to targeted behavior may include, but are not limited to, one or more of the following:

1. The behavior is ignored, but not the student;
2. The student is verbally, or verbally and physically, redirected to an activity;
3. The student is provided with feedback;

4. The message of the behavior is acknowledged; and/or
5. A brief physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

The behavioral intervention plan shall become part of the student's IEP and shall be sufficiently detailed so as to direct the plan's implementation. A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in non-educational settings.

At intervals scheduled by the IEP team, a district designee knowledgeable in behavior intervention, the student's parent/guardian, and others as appropriate shall evaluate the effectiveness of the behavioral intervention plan in accordance with law. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team. If the IEP team determines that changes in the behavioral intervention plan are necessary, the teacher and qualified district designee shall conduct additional functional behavior assessments and, based on the outcomes, propose changes to the plan.

The parent/guardian and the qualified district designee may make minor modifications without an IEP team meeting. The parent/guardian shall be notified of the need for modification and shall be able to review the existing program evaluation data prior to implementing the modification. Parents/guardians shall be informed of their right to question any modification to the plan through the IEP procedures. The IEP team also may include in the plan contingency schedules for altering specified procedures, their frequency or their duration, without reconvening the IEP team.

Emergency Interventions

Emergency interventions not specified in a student's behavioral intervention plan shall be used only when necessary to control unpredictable, spontaneous behavior which poses a clear and present danger of serious physical harm to the student 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. Emergency interventions shall not be used as a substitute for systematic behavioral intervention plans that are designed to change, replace, modify, or eliminate a targeted behavior. (EC 56521.1)

Only emergency interventions approved by the West End SELPA may be used. The LEAs provide training (e.g., CPI) to staff on positive behavioral strategies, including emergency interventions. No emergency intervention shall be used for longer than necessary to contain the behavior. Upon prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (EC 56521.1)

Parents/guardians shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. (EC 56521.1)

This report shall include:

1. The name and age of the student;
2. The setting and location of the incident;

3. The names of the staff or other persons involved;
4. A description of the incident and the emergency intervention used;
5. A statement of whether the student is currently engaged in a systematic behavioral intervention plan; and
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident.

If the behavior emergency report is for a student who does not have a behavioral intervention plan (BIP), the Superintendent or designee shall, within two days of the incident, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional behavior assessment, and determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting an assessment, not developing an interim plan, or both. (EC 56521.1)

If the behavior emergency report is for a student who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (EC 56521.1)

Prohibited Interventions

The district prohibits any use of the following:

1. Any intervention designed to, or likely to, or likely to cause physical pain, including but not limited to electric shock;
2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances near the student's face;
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
4. Any intervention that is designed to subject, used to subject, or likely to subject the student to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma;
5. Any intervention that employs any device, material, or object(s) that simultaneously immobilize all four extremities, including prone containment or any similar technique by any person who is not trained in the use of prone containment as a limited emergency intervention;
6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law for such use;
7. Any intervention that precludes adequate supervision of the student;
8. Any intervention that deprives the student of one or more of his/her senses; and
9. Force exceeding what is reasonable and necessary under the circumstances.

(EC 56521.2(a).)

Legal References:

EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500 - 56508 Procedural safeguards; including due process rights

56520 - 56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5

3051.23 Behavioral intervention

UNITED STATES CODE, TITLE 20

1412 State eligibility

1414 Evaluations, eligibility determinations, individualized education programs, and educational placements

1415 Procedural safeguards

UNITED STATES CODE, TITLE 34

300.1 - 300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

CLASSIFICATION: Instruction**SUBJECT: INDEPENDENT EDUCATIONAL EVALUATION****Adopted:****Revised:****First Reading: 1/20/17****Second Reading: 4/28/17****Adopted: 4/28/17**

OVERVIEW

The West End Special Education Local Plan Area ("SELPA") has developed this policy, corresponding procedures and criteria, which govern independent educational evaluations. Parents should be sure to read the entire document carefully. The policy, procedures and criteria are intended to be read in conjunction with one another as one comprehensive document. Parents who need additional information about independent educational evaluations should contact the office of the SELPA Administrator at 909/476-6188.

NOTICE TO PARENTS

- Please read this document before obtaining or paying for an independent educational evaluation. This document may limit your right to reimbursement.
- Before obtaining an independent educational evaluation, please contact the special education administrator from your district to discuss your evaluation questions and options.
- The school district will not automatically reimburse parents who unilaterally obtain independent educational evaluations. Please ensure that any independent educational evaluation conforms to SELPA requirements.

DEFINITIONS

"Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district.

"Public expense" means that the school district either pays for the full cost of the evaluation or ensure that the evaluation are otherwise provided at no cost to the parent.

PARAMETERS FOR SEEKING INDEPENDENT EDUCATIONAL EVALUATION

Parents have the right to an independent educational evaluation at public expense if they disagree with an evaluation completed by the school district, subject to the policy, procedures and criteria specified in this document and applicable laws. A parent must first inform the school district that the parent: (1) Disagrees with the school district's evaluation; and (2) Is requesting an independent educational evaluation at public expense. Parents are encouraged to provide this information by submitting a written request to the school district's Director of Special Education, or to communicate this information to the student's IEP team during an IEP meeting.

The parent may only request one publicly-funded independent evaluation for each evaluation completed by the school district. If a parent disagrees with an evaluation by the school district and seeks an independent educational evaluation at public expense, the school district without unnecessary delay, will either initiate a due process hearing to show that its evaluation is appropriate or will ensure that an independent educational evaluation is provided at public expense.

EXPLANATION OF DISAGREEMENT

If parents request an independent educational evaluation at public expense, they parent may be asked for a reason why he or she objects to the school district's evaluation. However, the school district may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense, or the initiation of a due process hearing to defend its evaluation.

RESPONSE TO REQUEST FOR AN INDEPENDENT EDUCATIONAL EVALUATION

If parents request an independent educational evaluation at public expense the district may attempt to resolve the issue with the parents by taking these steps:

1. The district special education administrator will be notified.
2. The parents will be provided a copy of the SELPA policy, procedures and criteria for independent educational evaluations, which includes information regarding where independent educational evaluations may be obtained, as well as the Notice of Procedural Safeguards.
3. The school district may request to review its evaluation with the parents to identify ~~any~~ the areas of disagreement. However, parents are not obligated to explain why they disagree with the district's evaluation.
4. The district may offer the parent the option of another evaluation conducted by a district staff member from another school site. If the parent selects this option, then it must be documented in writing that parents agrees to withdraw or postpone his or her request for an independent educational evaluation until the new district assessment is completed. If parent does not agree to postpone his or her request for an independent educational evaluation, then the district will timely comply with step 5 below.
5. The district, in coordination with the West End SELPA, will determine whether to initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an independent evaluation. Without unnecessary delay, the district must either initiate a due process hearing to show that its evaluation is appropriate or must ensure that an IEE is provided at public expense.

The parent will be provided a copy of this policy, which includes options for an IEE at public expense (Options a-e below)

- a. A staff member from another LEA in the SELPA
- b. A SELPA staff member
- c. A staff member from another SELPA
- d. A public sector provider
- e. A private sector provider

In the interest of consistency between public and private evaluations, the SELPA encourages parents to choose an option for additional assessment offered by the school district within 15 days of receiving the options. The parents may communicate, in writing, their preferred option.

The assessment(s) completed must be consistent with the location limitations of the evaluator(s), the minimum qualifications of evaluator(s), and the costs of the evaluation as set forth in this policy, and consistent with criteria that the District uses when it initiates an evaluation. As part of an independent educational evaluation, the examiner shall follow guidelines for school district evaluations, which include, but are not limited to, observing the student in an appropriate setting.

If the school district chooses to initiate a due process hearing to demonstrate that its evaluation is appropriate, it must provide the parent with prior written notice of its refusal to provide an independent educational evaluation. It must also initiate the due process hearing without undue delay. If the school district initiates a hearing and the final decision is that the school district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

PROCEDURES FOR OBSERVATIONS BY INDEPENDENT EDUCATIONAL EVALUATORS

Education Code § 56329 allows independent evaluators an equivalent opportunity to observe a special education student in his or her current placement and any placement proposed by the educational agency if the public agency's assessment includes, or its assessment procedures permit, such an observation.

The West End SELPA has established the following procedures and guidelines for these observations:

- The independent evaluator will notify the District Special Education Administrator and Site Administrator of his/her request to schedule an observation in writing five days prior to the date of the requested observation. It is the responsibility of the parent to inform their selected evaluator of this requirement.
- The District Special Education Administrator will coordinate with the Site Administrator and independent evaluator to determine a mutually-agreeable time and place for the observation. Prior to the observation, the purpose of the observation, the length of the observation and the date and location(s) of the observation will be agreed to. Observations will be limited to one independent evaluator per school day.
- The District Special Education Administrator will assign a district staff member to meet the independent evaluator and accompany him/her during their observation.
- In order to protect the privacy of other students, there will be no videotaping or recording during observations. There will be no direct contact with students.
- If the independent evaluator wishes to discuss the observation with district staff, advance notification of this request will be necessary, so that adequate coverage of students can be arranged. Interviews or discussions with staff shall be limited to certificated staff.
- Independent evaluators are required to follow any and all LEA adhered to policies and/or regulations related to the observation of students.

CONSIDERATION OF THE INDEPENDENT EDUCATIONAL EVALUATION

Independent educational evaluations are designed to provide information regarding the educational needs of students with disabilities. The school district, through the IEP process, is responsible for recommending placements and services. Therefore, the school district will consider recommendations obtained in independent educational evaluations completed in accordance with this policy and procedures. However, independent educational evaluations will not control the school district's determinations and may not be considered if not completed by a qualified professional, as determined by the school district and this policy.

PARENT INITIATED EVALUATIONS

If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

1. Must be considered, if it meets SELPA criteria, in any decision made with respect to the provisions of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding that student.

EVALUATIONS ORDERED BY HEARING OFFICERS

If a hearing officer orders an independent educational evaluation as part of a hearing, the cost of the evaluation must be at the public's expense.

CIRCUMSTANCES RESULTING IN EVALUATION NOT FUNDED BY THE SELPA

Because the parent must first disagree with the school district's evaluation, the school district does not have an obligation to reimburse parents for privately obtained evaluations obtained prior to the date that the school district's evaluation is completed. The school district is not obligated to reimburse parents for privately-obtained evaluations if the parent disagrees with the school district's evaluation and independently seeks a private evaluation without first notifying the school district of their disagreement with the school district assessment and requesting an independent educational evaluation from the school district.

Legal References:

20 U.S.C. 1414(a)(1)(A) – Evaluations and re-evaluations
20 U.S.C. 1415(b) – Right to independent educational evaluation

34 CFR 300.321 – Re-evaluations
34 CFR 300.502 – Independent Educational Evaluations
Comments to 34 CFR 300.502 – Independent Educational Evaluations
34 CFR 300.505 – Parent Consent – Evaluation
34 CFR 300.537 – Re-evaluations

Education Code 56327 – Assessment Reports
Education Code 56329 – Independent Educational assessments
Education Code 56381 – Re-assessments

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WEST END SPECIAL EDUCATION LOCAL PLAN AREA

AR 6159.8

CLASSIFICATION: Instruction

Adopted:

Revised:

First Reading: 1/20/17

Second Reading: 4/28/17

Adopted: 4/28/17

SUBJECT: INDEPENDENT EDUCATIONAL EVALUATION – CRITERIA

LOCATION LIMITATIONS FOR EVALUATORS

Independent Educational Evaluators must be located within ~~40~~ 45 miles of the West End SELPA office located at ~~9630 7th St.~~ 8265 Aspen Ave., Rancho Cucamonga, CA 91730. Independent Evaluators outside this area will be approved only on an exceptional basis, providing the parents can demonstrate in writing the necessity of using personnel outside the specified area. The parents should submit this in writing to the school district's Director of Special Education. If it is determined that exceptional circumstances do not exist, the district may file for a due process hearing to demonstrate the parents' selected evaluator does not meet the SELPA criteria.

COST LIMITATIONS FOR EVALUATIONS

The cost of independent educational evaluations shall be subject to the maximum allowable amounts specified in this policy, which shall include observations, administration and scoring of tests, report writing, and attendance (in person or telephonically) at the IEP team meeting to discuss the findings if invited by the school district. Costs above the maximum allowable amounts specified in this policy will not be approved unless the parent can demonstrate in writing that unique circumstances justify going above the pertinent maximum allowable amount. The parents should submit this in writing to the school district's Director of Special Education. If it is determined that exceptional circumstances do not exist, the district may file for a due process hearing to demonstrate the parents' selected evaluator does not meet the SELPA criteria.

As part of the contracted independent educational evaluation, the examiner must provide to the school district protocols of all the assessments conducted, and provide a written report to the school district prior to the IEP team meeting. Independent evaluators must release their assessment information, including protocols and results to the district/SELPA prior to receipt of payment for services. The results of the independent evaluation will be considered in any IEP team decision made with respect to the provision of a free appropriate public education with regard to the student with disabilities as required by the IDEA and/or Section 504 of the Rehabilitation Act of 1973. However, the IEP team's obligation to consider the independent educational evaluation does not obligate the team to accept the evaluation and/or any or all of its recommendations.

QUALIFICATIONS FOR EVALUATORS

All independent educational evaluations must be conducted by persons competent to perform the assessment as determined by this criteria, as well as any other criteria, the school district uses when it conducts an assessment to the extent those criteria are consistent with the parent's right to an independent educational evaluation. All independent educational evaluations must be conducted in accordance with all of the requirements and limitations of state and federal law that apply to school district assessments, including but not limited to observing the student in the appropriate setting (E.C. §§ 56327) and conducting evaluations in accordance with Education Code § 56320. Independent evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate in writing the necessity of using an evaluator meeting other qualifications. The parents should submit this in writing to the school district's Director of Special Education. If it is determined that exceptional circumstances do not exist, the district may file for a due process hearing to demonstrate the parents' selected evaluator does not meet the SELPA criteria.

CONFLICT OF INTEREST

If the parents' selected evaluator is later sought to provide services, the District/SELPA reserves the right to refuse to allow the evaluator to provide the recommended services due to a potential conflict of interest. Likewise, the District/SELPA may, in its discretion, refuse to fund services from an individual or agency who has conducted an independent educational evaluation for a particular student.

| Type of Assessment | Range | Qualifications |
|------------------------------------|----------------------------|--|
| Academic Achievement | \$1000 - \$1500 | Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist |
| Adaptive Behavior | \$500 - \$1000 \$500.00 | Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist |
| Assistive Technology | \$700 - \$900 \$800.00 | Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed Assistive Technology Specialist |
| Auditory Acuity | \$300 - \$500 \$300.00 | Licensed or Credentialed Audiologist Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist |
| CAPD (Central Auditory Processing) | \$700 - \$1500 | Licensed or Credentialed Audiologist |
| Auditory Perception | \$300 - \$500 | Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed School Psychologist Licensed Educational Psychologist |
| Cognitive | \$ 650 - \$850 | Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Psychologist |
| Health | \$ 250 - \$300 | Licensed Physician Credentialed School Nurse |
| Neuro-psychological | \$3500 - 4500 | Licensed Educational Psychologist Licensed Marriage and Family Therapist Licensed Clinical Psychologist Licensed Psychiatrist |
| Motor (OT) | \$400 - \$500 | Licensed Physical Therapist Licensed Occupational Therapist Credentialed Adaptive Physical Education Specialist Credentialed Teacher of the Physically Impaired |

| | | |
|---|------------------|---|
| Occupational Therapy | \$500 - \$1300 | Licensed Physical Therapist Licensed Occupational Therapist Credentialed Adaptive Physical Education Specialist Credentialed Teacher of the Physically Impaired |
| Physical Therapy | \$175 - \$250 | Licensed Physical Therapist |
| Visual Motor Integration | \$250 350 | Credentialed School Psychologist Licensed Educational Psychologist Licensed Occupational Therapist |
| Visual Acuity / Perception Developmental Vision | \$500 - \$1000 | Licensed Ophthalmologist Optometrist |
| Functional Vision | \$200 300 | Credentialed Teacher of the Visually Impaired |
| Speech and Language | \$800 - \$1500 | Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist |
| Social Emotional | \$700 - \$900 | Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Social Worker Licensed Marriage and Family Therapist Licensed Clinical Psychologist Licensed Psychiatrist |
| Transition/Vocational | \$1000 - \$1500 | Credentialed Special Education Teacher Credentialed School Psychologist |
| Behavior (FBA) | \$ 1000 - \$3000 | Credentialed School Psychologist with BICM or BCBA Certification Licensed Educational Psychologist with BICM or BCBA Certification |
| Psychological Education To include, by not limited to: Academic Adaptive Behavior Cognitive Visual Motor Social Emotional | \$3000 - \$4000 | Credentialed School Psychologist Licensed Educational Psychologist Licensed Marriage and Family Therapist Licensed Clinical Psychologist Licensed Psychiatrist |

Legal References:

20 U.S.C. 1414(a)(1)(A) – Evaluations and re-evaluations
20 U.S.C. 1415(b)– Right to independent educational evaluation

34 CFR 300.321 – Re-evaluations
34 CFR 300.502 – Independent Educational Evaluations
Comments to 34 CFR 300.502 Independent Educational Evaluations
34 CFR 300.505 – Parent Consent – Evaluation
34 CFR 300.537 – Re-evaluations

Education Code section 56327 – Assessment Reports
Education Code 56329 – Independent Educational Assessments
Education Code 56381 – Re-assessments

CLASSIFICATION: **Instruction****SUBJECT: PARTICIPATION IN STATE AND DISTRICT WIDE
ASSESSMENTS**

Adopted: 00/00/00
Revised: 9/25/15
First Reading: 9/25/15
Second Reading: 12/11/15
Adopted: 1/22/16

The West End SELPA Superintendents' Council recognizes that all students with disabilities shall be included in general state and district-wide assessment programs with appropriate accommodations, and alternate assessments where necessary and as indicated in their respective individualized education programs. The West End SELPA Superintendents' Council further recognizes that state achievement test results provide an indication of student progress in achieving state academic standards and may be used to promote high-quality teaching and learning. The Superintendent or designee shall administer mandatory student assessments within the California Assessment of Student Performance and Progress (CAASPP) as required by law and in accordance with Board Policy and administrative regulation.

The Superintendents' Council strongly encourages all students at the applicable grade levels to participate in the state assessments in order to maximize the usefulness of the data and enable the district to meet participation levels required for state and federal accountability systems. The Superintendent or designee shall notify students and parents/guardians about the importance of these assessments and shall develop strategies to encourage student participation. Students shall be exempted from participation only in accordance with law and administrative regulation.

The Superintendents' Council shall annually examine state assessment results by school, grade level, and student subgroup as one measure of the district's progress in attaining its student achievement goals and shall revise the local control and accountability plan and other district or school plans as necessary to improve student achievement for underperforming student groups.

West End SELPA Board Policy 0430, Comprehensive Local Plan for Special Education, section titled, "Participation in State-Wide Assessments" states: "It shall be the policy of the LEAs that all students with disabilities shall participate in state and district-wide assessment programs. The IEP team determines how a student will access assessments with or without accommodations and/or modifications, or access alternate assessments, consistent with state standards governing such determinations."

Districts shall permit a special education student to take the high school exit exam with any authorized accommodations or modifications provided for the high school exit examination in his/her IEP or 504 Plan. If a student's IEP or 504 Plan does not address the exam specifically, the student shall be permitted to take the exam with any authorized accommodations or modifications provided for standardized testing in his/her IEP or 504 Plan. If a student's IEP or 504 Plan does not address either the exam or standardized testing, the student shall be permitted to take the exam with any authorized accommodations or modifications provided for general classroom testing in his/her IEP or 504 Plan.

In the case of a district-wide assessment, the local educational agency, shall develop and implement guidelines for the participation of individuals with exceptional needs in alternate assessments for those

pupils who cannot participate in regular assessments with accommodations as indicated by their respective individualized education programs. The guidelines shall provide for alternate assessments that meet the following requirements:

1. Are aligned with the state's challenging academic content standards and challenging pupil academic achievement standards.
2. If the state has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out paragraph (1) of subsection (b) of Section 1111 of the Elementary and Secondary Education Act of 1965, measure the achievement of individuals with exceptional needs against those standards.

In the case of a district-wide assessment, the local educational agency, shall make available to the public reports regarding the assessment of pupils that have been identified as individuals with exceptional needs with the same frequency and in the same detail as it reports on the assessment of pupils that have not been so identified, in accordance with subparagraph (D) of paragraph (16) of subsection (a) of Section 1412 of Title 20 of the United States Code.

In the case of a district-wide assessment, the local educational agency, shall, to the extent feasible, pursuant to subparagraph (E) of paragraph (16) of subsection (a) of Section 1412 of Title 20 of the United States Code, use universal design principles in developing and administering any assessments under this section.

Legal References:

EDUCATION CODE:

| | |
|--------------|---|
| 49076 | Student Records; access |
| 51041 | Evaluation of educational program |
| 52052 | Academic Performance Index; numerically significant student subgroups |
| 52060-52077 | Local control and accountability plan |
| 56205(a)(15) | |
| 56345 | Individualized education program, contents |
| 56385 | State and district-wide assessment programs |
| 60600-60630 | Assessment of academic achievement |
| 60640-60649 | California Assessment of Student Performance and Progress |
| 60660-60663 | Electronic learning assessment resources |
| 60810 | Assessment of language development |
| 60851 | High school exit exam for a pupil with a disability |
| 99300-99301 | Early Assessment Program |

CODE OF REGULATIONS, TITLE 5

| | |
|---------|-------------------|
| 850-864 | State Assessments |
|---------|-------------------|

UNITED STATES CODE, TITLE 20

| | |
|------|--|
| 1412 | Participation of students with disabilities in state assessments |
| 6311 | Adequate yearly progress |

CODE OF FEDERAL REGULATIONS, TITLE 34

| | |
|-------|--------------------------|
| 200.1 | Standards and assessment |
|-------|--------------------------|

FEDERAL REFERENCES

20 USC 1412(a)(16)

Management Resources:

CSBA PUBLICATIONS

Supporting Student Achievement: Student Assessment System in Flux, Governance Brief, June 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Assembly Bill 484 Questions and Answers

CALIFORNIA STATE UNIVERSITY PUBLICATIONS

The Early Assessment Program: Handbook for School Site Leaders, 2008

SMARTER BALANCED ASSESSMENT CONSORTIUM PUBLICATIONS

Usability, Accessibility, and Accommodations Guidelines, August 2015

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers, December 2000

WEBSITES:

CSBA: <http://www.csba.org>

California Department of Education, Testing and Accountability: <http://www.cde.ca.gov/ta>

California Learning Resources Network: <http://clrn.org>

California State University, Early Assessment Program: <http://www.calstate.edu/eap>

Smarter Balanced Assessment Consortium: <http://www.smarterbalanced.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

CLASSIFICATION: Instruction

SUBJECT: PARTICIPATION IN STATE AND DISTRICT WIDE
ASSESSMENTSAdopted: 00/00/00
Revised: 00/00/00
First Reading: 9/25/15
Second Reading: 12/11/15
Adopted: 1/22/16

West End SELPA Administrative Regulation 0430, Comprehensive Local Plan for Special Education, section entitled "Participation in Assessments" states the following:

Participation in Assessments

Students with disabilities are included in general state and district-wide assessment programs with appropriate accommodations and/or modifications, where necessary. Each student's IEP team shall determine, at least on an annual basis, the individual accommodations and/or modifications in the administration of state or district-wide assessments necessary to minimize the impact of the student's disability on test performance. If the IEP team determines that the child will not participate in a particular state or district-wide assessment of student achievement, or part of the assessment, the IEP shall include a statement of how the child will be assessed.

Students with significant cognitive disabilities who cannot participate in the Smarter Balanced assessment, even with accommodations and/or modifications, should participate in the state alternate assessment system, called the California Alternate Assessment (CAA), in accordance with state guidelines, in order to meet assessment participation requirements. *The IEPs for students participating in the CAA shall include a statement of why participation in a particular state or district-wide assessment and how the child will be assessed.*

The district shall administer the following assessments in the California Assessment of Student Performance and Progress (CAASPP): (Education Code 60640)

1. The Smarter Balanced Assessment Consortium summative assessments for English language arts and mathematics, aligned with Common Core State Standards, in grades 3-8 and 11. Education Code 60603 defines a "summative assessment" as one designed to be given near the end of the school year to evaluate a student's knowledge and skills relative to a specific set of academic standards.

All students at the applicable grade levels shall be administered these tests, except that:

- a. English learners who are in their first 12 months of attending a school in the United States shall be exempted from taking the English language arts assessment to the extent allowed by federal law
- b. Students with disabilities may be provided an alternate test in accordance with their individualized education program (IEP), as provided in item #3 below

2. California Standards Test in science at grades 5, 8, and 10. When available, the SBE shall adopt an assessment that is aligned with the Next Generation Science Standards adopted by the SBE in September 2013 pursuant to Education Code 60605.85.
3. For students with disabilities who are unable to take the tests specified in items #1-2 above even with appropriate accommodations, the California Alternate Assessment (CAA) in English language arts and mathematics for students in grade levels and subjects as mandated or California Modified Assessment in science for students in grades 5, 8, and 10, in accordance with the student's IEP.
4. The Standards-Based Test in Spanish (STS) to Spanish-speaking English learners in grade levels as mandated. This test shall be administered to English learners in addition to the state achievement tests administered in English.

The STS also may be used to assess students in a dual language immersion program who are not limited English proficient or who are redesignated fluent English proficient.

5. For students in grade 11 on a voluntary basis, an augmented achievement test approved for use in the Early Assessment Program as a measure of students' readiness for college-level work in English and/or mathematics pursuant to Education Code 99300-99301.

Testing Period

The state achievement tests shall be administered within the testing period established by the State Board of Education (SBE) pursuant to Education Code 60640. Students who are absent during testing shall be provided an opportunity to take the tests during the period of time established by the SBE for make-up testing.

Exemptions

A parent/guardian may submit to the school a written request to excuse his/her child from any or all parts of any test. However, district employees shall not solicit or encourage any written exemption on behalf of any student or group of students. (5 CCR 852)

Testing Variations

Assessments shall be administered in accordance with the manuals or other instructions provided by the test contractor and California Department of Education (CDE), except that students may be provided a tool, support, or accommodation that is specifically allowed pursuant to 5 CCR 853.5.

Staff Responsibilities

On or before September 30 of each year, the Superintendent or designee shall designate a district coordinator who shall oversee all matters related to the testing program and serve as the district representative and liaison with the test contractor and the CDE. In addition, the Superintendent or designee shall designate a coordinator for each test site. The duties of the district and school site test coordinators shall include those specified in 5 CCR 857-858. (5 CCR 857-858)

The Superintendent or designee also shall appoint test examiner(s) to administer the state assessments. A test examiner shall be an employee or contractor of the district or, for the CAA, shall be a certificated or licensed employee of the school, district, or county office of education. (5 CCR 850)

As appropriate, the Superintendent or designee shall assign a specially trained district employee to serve as a test proctor to assist the test examiner; a specially trained district employee, or other person supervised by a district employee, to serve as a translator to translate the test directions into a student's primary language; and a district employee to serve as a scribe to transcribe a student's responses to the format required by the test. A student's parent/guardian shall not be eligible to be that student's translator or scribe. (5 CCR 850)

Test coordinators, examiners, proctors, translators, and scribes shall sign a test security agreement or affidavit. (5 CCR 850, 857-859)

Report of Test Results

For any state assessments that produce valid individual student results, the Superintendent or designee shall provide a written report of the student's results to his/her parents/guardians which includes a clear explanation of the purpose of the test, the student's score, and its intended use by the district. An individual student's scores shall also be report to his/her school and teacher(s) and shall be included in his/her student record. (Education Code 60641; 5 CCR863)

With parent/guardian consent, the Superintendent or designee may release a student's test results to a postsecondary educational institution for the purposes of credit, placement, determination of readiness for college-level coursework, or admission. (Education Code 60641)

The Superintendent or designee shall present district-wide, school-level, and grade-level results to the Superintendents' Council at a regularly scheduled meeting. The Superintendents' Council shall not receive individual students' scores or the relative position of any individual student. (Education Code 49076, 60641)

Legal References:

EDUCATION CODE

| | |
|-------------|---|
| 56034-56035 | Definitions of nonpublic, nonsectarian school and agency |
| 56042 | Placement not to be recommended by attorney with conflict of interest |
| 56101 | Waivers |
| 56163 | Certification |
| 56168 | Responsibility for education of student in hospital or health facility school |
| 56195.8 | Adoption of policies |
| 56342.1 | Individualized Education Program; placement |
| 56360-56369 | Implementation of Special Education |
| 56711 | Computation of state aid |
| 56740-56743 | Apportionments and reports |
| 56760 | Annual budget plan; service proportions |
| 56775.5 | Reimbursement of assessment and identification costs |

FAMILY CODE

| | |
|-----------|---|
| 7911-7912 | Interstate compact on placement of children |
|-----------|---|

GOVERNMENT CODE

| | |
|-----------|--|
| 7570-7587 | Interagency responsibilities for providing services to children with disabilities, especially: |
| 7572.55 | Seriously emotionally disturbed child; out-of-state placement |

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers>

CLASSIFICATION: INSTRUCTION

SUBJECT: SERVICE ANIMALS AND ANIMALS AT SCHOOL

Adopted: 9/24/210

Revised: 9/25/15

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Service Animals

The West End SELPA Superintendents' Council recognizes that individuals with disabilities have a right to full and equal access to all public places, including schools, school facilities and school transportation, pursuant to the ADA and Civil Code 54.2 that includes the right to be accompanied by individually trained service animals. A service animal is defined as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other disability. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples include, but are not limited to, assisting an individual who is blind or visually impaired, alerting an individual who is deaf or hearing impaired to the presence of people or sounds, providing non-violent protection work, rescue work, pulling a wheelchair, or fetching dropped items, assisting an individual during a seizure and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. If the sole function of the animal is to provide emotional support, comfort, therapy or companionship, it shall not be considered to be an individually trained service animal. Species of animals, other than dogs, are not service animals for the purpose of this definition; however reasonable modifications shall be made to permit the use of a miniature horse that has been individually trained to do work or perform tasks for the benefit of an individual with a disability.

Individuals with disabilities, including students, school staff, and visitors, may be accompanied by service animals, as that term is defined in Title 28 of the Code of Federal Regulations, Section 35.104, on school property or at school-sponsored programs or activities, subject to the rules set forth in Administrative Regulation 6163.2. (28 CFR 35.104, 35.136)

The West End SELPA assumes no liability and shall not be responsible for the provision of service animals brought on school property or to school-sponsored programs or activities. The user/handler of a service animal shall be responsible for its care and conduct at all times. (Cal. Civ. Code 54.1, 54.2; 28 CFR 35.136)

An individual with a disability may be asked to remove a service animal, if the animal is out of control and the handler does not take effective action to control it, or if the animal is not housebroken. If the individual is required to remove the service animal, for these reasons, then they shall be allowed access to the school or school sponsored activities without the service animal.

The individual with a disability or authorized trainer shall be responsible for the care and conduct of the dog at all times. The dog shall be under the user's control at all times. The dog must be housebroken. The user is responsible for the cleanliness of the dog, including flea control, to protect the health and safety of others. Any dog brought to school shall be taken home the same day.

If the individual fails to satisfy any of the above conditions, the principal or designee shall not permit the user to bring the dog on school property to school sponsored programs or activities on an ongoing basis.

Before an individual may bring a service animal into a classroom, the principal or designee shall first provide written notification to all parents/guardians of students in the particular class, requesting information regarding whether their child has any known allergies, asthma, or other health related conditions that may be affected by the dog's presence in the classroom. If the principal or designee determines that a student in a participant class has a health-related conditions that would be affected by the presence of the dog, the principal or designee may deny the individual's request to bring the dog into the classroom. The principal or designee may also make alternate arrangements to accommodate the individual's request.

Nothing should preclude the principal or designee, upon receiving a request from or on behalf of a student with a disability to bring a service animal on school property or to school sponsored programs or activities, from convening a Section 504 or IEP team meeting to further clarify the student's need for additional support in the classroom.

Animals at School

The Governing Board recognizes that animals can contribute to the district's instructional program by being effective teaching aids to students and by assisting individuals with disabilities to access district programs and activities. In addition, instruction related to the care and treatment of animals teaches students a sense of responsibility and promotes the humane treatment of living creatures.

The Superintendent or designee shall develop rules and procedures to ensure that when animals are brought to school, the health, safety, and welfare of students, staff, and the animals are protected. However, the district assumes no liability for the safety of animals allowed on district property.

Legal References:

CALIFORNIA CONSTITUTION

Article I, Section 28(f) (1) Right to Safe Schools

CIVIL CODE

54.1 Access to public places

54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:

815 Liability for injuries generally; immunity of public entity

835 Conditions of liability

12926 Definitions

EDUCATION CODE

233.5 Instruction in kindness to pets and humane treatment of living creatures

35160 Authority of Governing Boards

39839 Transportation of guide dogs, signal dogs, service dogs

51202 Instruction in personal and public health and safety

51540 Safe and humane treatment of animals at school

56363(b)(3) Related Services

VEHICLE CODE

21113 Public grounds

CODE OF REGULATIONS, TITLE 13

1216 Transportation of property
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act
UNITED STATES CODE, TITLE 29
794 Rehabilitation Act of 1973, Section 504
FEDERAL LAW
Titles II and III of the Americans with Disabilities Act of 1990
ADA Amendments Act of 2008 (Public Law 110-325)
CODE OF FEDERAL REGULATIONS
28 C.F.R. 35.104 Definition of service animal
28 C.F.R. 35.130(h) Imposition of legitimate safety requirements
28 C.F.R. 35.136 Service animals
28 C.F.R. 35.139 Direct Threat
34 C.F.R. 300.34(b) (7) Orientation and Mobility
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Management Resources:

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Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

CSBA PUBLICATIONS

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WEBSITES:

CSBA: <http://www.csba.org>

American Society for the Prevention of Cruelty to Animals: <http://www.asPCA.org>

Humane Society of the United States: <http://www.hsus.org>

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

CLASSIFICATION: INSTRUCTION

SUBJECT: SERVICE ANIMALS AND ANIMALS AT SCHOOL

Adopted: 0/00/00

Revised: 00/00/00

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Service Animals

This regulation is designed to provide guidance regarding the use of service animals by students with disabilities enrolled in schools within the West End Special Education Local Plan Area (West End SELPA), as well as the use of such animals by school staff and visitors on school property and at school-sponsored programs and activities.

1. Definitions

- a. "Individual with a disability": As defined by Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the ADA Amendments Act of 2008. (29 U.S.C. 705(20); 42 U.S.C. 12102)
- b. "Service Animal": Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. (28 C.F.R. 35.104, 35.136.)
 - i. Under limited circumstances, a service animal, as that term is defined in Paragraph 1(b) above, may include a miniature horse that has been individually trained to do work or perform tasks for the benefit of an individual with a disability. However, a miniature horse may be excluded from school property or a school-sponsored program or activity if its presence results in a fundamental alteration to the nature of the program, activity, or service provided. In making this determination, the school principal or designee shall consider the following:
 - a. The type, size, and weight of the miniature horse and whether the school or facility can accommodate these features;
 - b. Whether the individual with a disability has sufficient control of the miniature horse;
 - c. Whether the miniature horse is housebroken; and
 - d. Whether the miniature horse's presence on school property or a school-sponsored program or activity compromises the legitimate safety requirements necessary for safe school operation.

- ii Other species of animals, whether wild or domestic, trained or untrained, shall not constitute service animals.
- c. "User": An individual with a disability as defined in Paragraph 1(a) above and persons authorized to train service animals for individuals with disabilities. (Civ. Code 54.1, 54.2)
- d. "Work" or "tasks" performed: The work or tasks performed by a service animal must be directly related to the individual's disability. The user shall provide ~~Provide~~ information to the principal or designee establishing the individualized training of the dog, including a description of the task(s) the dog performs for the individual. Examples of work or tasks include, but are not limited to, the following:
 - i. Assisting individuals who are blind or have low vision with navigation and other tasks;
 - ii. Alerting individuals who are deaf or hard of hearing to the presence of people or sounds;
 - iii. Providing non-violent protection or rescue work;
 - iv. Pulling a wheelchair;
 - v. Assisting an individual during a seizure;
 - vi. Alerting individuals to the presence of allergens;
 - vii. Retrieving items, such as medication or the telephone;
 - viii. Providing physical support and assistance with balance and stability to individuals with mobility disabilities; and
 - ix. Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. (28 C.F.R. 35.104)
- e. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship for an individual with a disability do not constitute work or tasks for the purposes of this definition. (28 C.F.R. 35.104)

2. Service Animals on School Property or at School-Sponsored Programs and Activities

- a. An individual with a disability ("user") has the right to be accompanied on school property or to school-sponsored programs or activities, and on school transportation by a service animal, including guide dogs, signal dogs, or service dogs, specially trained for an individual with a disability. (Civ. Code 54.1, 54.2; 28 C.F.R. 35.136)
- b. An individual with a disability or an authorized trainer must notify the school principal or designee and receive approval prior to bringing a service animal to school or to a school

sponsored program or activity on an ongoing basis. (Cal. Const. art. I, sec. 28(f)(1); 28 C.F.R. 35.130(h).)

- c. Prior to receiving permission to bring a service animal on school property or to a school-sponsored program or activity, the school principal or designee shall determine whether the animal qualifies as a service animal. In making this determination, the school principal or designee may ask the user whether the animal is required because of a disability and what work and/or tasks the animal has been trained to perform, unless it is readily apparent that the service animal is trained to do work or perform tasks for an individual with a disability. (28 C.F.R. 35.136)
- d. If the school principal or designee determines that the animal qualifies as a service animal, the following rules shall apply when the user is accompanied by a service animal on school property or to a school-sponsored program or activity:
- e. The service animal shall be under the user's control at all times. The user shall provide information to the principal or designee establishing that he or she has received proper individualized training to handle, control, and supervise the dog
- f. The user shall ensure that the service animal is properly harnessed or on a leash or tether and wears an identification tag that identifies the dog as a guide dog, signal dog or service dog at all times. However, if the user is unable, because of a disability, to use a harness, leash, or tether, or the use of a harness, leash, or tether would interfere with the service animal's safe, effective performance of work or tasks, the service animal must otherwise be under the user's control (e.g., voice control, signals, or other effective means).
- i. The user shall be responsible for the care, conduct, and supervision of the service animal at all times.
- ii. The service animal shall not exhibit aggressive behavior toward students, school staff, or any other individuals, may not otherwise pose a direct threat to the health and/or safety of others, and may not be disruptive to the educational environment. The school principal or designee shall make a reasonable judgment that is based on available objective information regarding whether the service animal presents an unacceptable risk or threat to others or a disruption to the educational environment.
- iii. The user shall be responsible for the cleanliness of the service animal, including flea control, to protect the health and safety of others.
- iv. Any service animal brought on school property or to a school-sponsored program or activity shall be taken home the same day.
- v. Complete and sign a release of liability form, which shall release the district from any and all liability for damage to persons, premises, or facilities caused by the dog. If the user is a minor under the age of eighteen (18) years old, the parent/guardian shall complete and sign the release of liability form. By signing the release, the individual,

or the parent/guardian if the individual is a minor, agrees to assume all liability for any and all damages to persons, premises, or facilities caused by the dog.

- vi. Provide documentation from a veterinarian that the dog is properly vaccinated and in good health.

(Cal. Const. art I, sec. 28(f)(1); Civ. Code 54.1, 54.2; 28 C.F.R. 35.130(h), 35.136, 35.139)

- g. Before an individual with a disability may bring a service animal into a classroom, the school principal or designee shall first provide written notification to all parents/guardians of students in the particular class, requesting information regarding whether their child has any known allergies, asthma, or other health-related conditions that may be affected by the service animal's presence in the classroom. If the school principal or designee determines that a student and/or teacher has a health-related condition that would be affected by the presence of the service animal, the principal or designee shall take appropriate measures to protect that individual from exposure to the animal. In such case, the principal or designee shall make alternative arrangements to accommodate the individual with a disability. (Cal Const. art. 1, sec. 28(f)(1); 28 C.F.R. 35.130(h).)
- h. Before granting permission to a student with a disability to bring a service animal to school as part of his or her Section 504 Plan or Individualized Education Program ("IEP"), the school principal or designee shall determine whether the student's Section 504 or IEP team has addressed the student's educational needs and has offered the student a free, appropriate public education ("FAPE"), such that he or she does not require the use of a service animal at school. Nothing shall preclude the school principal or designee, upon receiving a request from or on behalf of a student with a disability to bring a service animal on school property or to a school-sponsored program or activity, from convening a Section 504 or IEP meeting to further clarify the student's need for additional support in the classroom. (20 U.S.C. 1414 *et seq.*; Educ. Code 56000 *et seq.*)
- i. A user shall be required to immediately remove the service animal from school property or a school-sponsored program or activity if any of the following occur:
 - i. The service animal is out of control and the user does not take effective action to control it; or
 - ii. The service animal is not housebroken.
 - iii. In circumstances where a service animal misbehaves or reasonably responds to a provocation or injury, the user shall be given a reasonable opportunity to gain control of the animal.
 - iv. If the individual with a disability is required to remove his or her service animal from school property or school-sponsored program or activity, the individual shall continue to have the opportunity to participate in the program, activity, or service without having the service animal on the premises. (28 C.F.R. 35.136)

3. Right to Use of School Transportation

Service animals trained to provide assistance to individuals with disabilities may be transported in a school bus when accompanied by students with disabilities enrolled in a public or private school, by disabled teachers employed in a public or private school or community college, and by individuals who train such animals. (Educ. Code 39839)

4. Liability for Service Animals

- a. The District assumes no responsibility for any service animal brought on school property or to school-sponsored programs or activities. (Civ. Code 54.1, 54.2; 28 C.F.R. 35.136.)
- b. The use of service animals must comply with all relevant federal and state laws and regulations.

Animals at School

Before any student or employee brings an animal to school for an instructional purpose, he/she shall receive written permission from the principal or designee. The principal or designee shall give such permission only after he/she has provided written notification to all parents/guardians of students in the affected class, asking them to verify whether their child has any known allergies, asthma, or other health condition that may be aggravated by the animal's presence. When a parent/guardian has provided notification that his/her child has an allergy, asthma, or other health condition that may be aggravated by the animal, the principal shall take appropriate measures to protect the student from exposure to the animal.

All animals brought to school must be in good physical condition and must be appropriately immunized. The teacher shall ensure that the species of animal is appropriate for the instructional purpose and age and maturity of the students.

All animals brought to school shall be adequately fed, effectively controlled, humanely treated, and properly housed in cages or containers suitable for the species. The teacher shall ensure that cages and containers are cleaned regularly and that waste materials are removed and disposed of in an appropriate manner.

The teacher shall ensure that students receive instructions regarding the proper handling of and personal hygiene around animals.

Except for service animals, as defined in Paragraphs 1(b) and 3 above, all animals are prohibited on school transportation services. (Educ. Code 39839; 13 CCR 1216)

Legal References:

CALIFORNIA CONSTITUTION

Article I, Section 28(f) (1) Right to Safe Schools

CIVIL CODE

54.1 Access to public places

54.2 Guide, signal, or service dogs, right to accompany

GOVERNMENT CODE

810-996.6 California Tort Claims Act, especially:

815 Liability for injuries generally; immunity of public entity
 835 Conditions of liability
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 39839 Transportation of guide dogs, signal dogs, service dogs
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 1216 Transportation of property
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 28 C.F.R. 35.136 Service animals
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Rules and Regulations, September 15, 2010, Vol. 75, Number 178, pages 56164-56236

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U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

CLASSIFICATION: STUDENTS**Adopted: 9/07****Revised: 01/15****SUBJECT: CHILD FIND; IDENTIFICATION AND EVALUATION
OF INDIVIDUALS FOR SPECIAL EDUCATION;
ELIGIBILITY/ANNUAL/TRIENNIAL REASSESSMENT****First Reading: 2/20/2015****Second Reading: 3/20/15****Adopted: 4/24/15**

Child Find

The Superintendent's Council recognizes the need to actively seek out and evaluate district residents from birth to age 21 inclusive within the member districts and LEAs who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

The Individuals with Disabilities Education Act (IDEA 2004) requires that this "child find" identification system include identification of students with disabilities who are homeless or are wards of the state, students attending private schools, including religious schools, highly mobile children with disabilities, such as migrant and homeless children. Such students, regardless of the severity of their disabilities, who are in need of special education and related services will be identified, located and evaluated. In order to carry out this requirement, districts will maintain records of which children with disabilities are currently receiving needed special education and related services.

The member district and LEA superintendent or designee shall establish a means whereby parents/guardians, teachers, appropriate professionals and others may refer for assessment any child they believe to have a disability that significantly interferes with his/her learning. The member district or LEA superintendent or designee shall identify processes to determine when an individual's academic, behavioral, or other difficulties may be related to disabilities and shall establish systematic procedures for special education program identification, screening, referral, assessment, planning, implementation, review and triennial assessment.

The member district or LEA superintendent or designee shall notify parents/guardians in writing of their rights related to identification, referral, assessment, instructional planning, implementation and review, including the district's procedures for initiating a referral for assessment to identify individuals who need special education services. (Education Code 56301)

Identification of Individuals for Special Education

The Superintendent or designee shall establish a comprehensive system that includes procedures for the identification, screening, referral, and regular and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the education and related services provided to such individuals. (Education Code 56301).

The district's identification procedures shall include methods for utilizing referrals from parents/guardians, teachers, appropriate professionals, and others, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302).

The Superintendent or designee shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals who need special education services. (Education code 56301)

Eligibility/Annual/Triennial Reassessment

Member districts and LEAs shall review on at least an annual basis the special education child's progress. This review shall include, but is not limited to, the achievement of annual goals, the appropriateness of placement, and/or to make any necessary revisions. A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. All referrals from school staff shall include a brief reason for the referral and describe the regular program resources that were considered and/or modified for use with the student, and their effect. The pupil shall not be considered an individual with exceptional needs if the determinant factor is a lack of appropriate instruction in reading, including the essential components of reading instruction; a lack of instruction in mathematics; or limited English proficiency. SELPA procedures shall be followed in conducting assessments and reassessments. The LEA shall conduct a reassessment of each special education pupil at least every three years, or more frequently, if conditions warrant a reassessment or if the child's parent or teacher requests a reassessment and a new Individualized Education Program (IEP) to be developed. A reassessment shall occur not more frequently than once a year, unless both the parent and the Local Education Agency (LEA) agree in writing.

An LEA shall not be required to obtain informed consent from the parent of a child for initial assessment to determine whether the child is an individual with exceptional needs if:

- Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
- The rights of the parent/guardian have been terminated in accordance with California law.
- The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student. (EC56321)

Educational Code Section 56321.1 requires the LEA to obtain informed consent from the parent of a child who is the ward of the state and not residing with the child's parent. Reasonable efforts shall be made to obtain the informed consent from the parent.

Educational Code Section 56320 requires the LEA to follow IDEA requirements that assessments and assessment materials are provided in the pupil's native language or mode of communication, unless clearly not feasible to do so; are administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; are used for purposes for which they are valid and reliable, administered by trained and knowledgeable personnel; and are administered in accordance with any instructions provided by the producer of the assessments; and it specifies that no single measure or assessment is used as the

sole criterion for determining whether a pupil is an individual with exceptional needs or for determining an appropriate educational program for the pupil.

The time from referral for initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child shall be made, and an individualized education program meeting shall occur, within 60 days of receiving parental consent for the assessment. Each LEA shall ensure that assessments of individuals with exceptional needs who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools as necessary and as expeditiously as possible, in accordance with federal statute, to ensure prompt completion of a full assessment. (EC56043)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and related services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these individuals. (EC 56445)

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. (EC56321)

If a parent/guardian refuses to consent to the initial evaluation, the district may pursue the evaluation by utilizing the due process procedures, however if the district declines to pursue the lack of consent, it does not violate its child find requirement. If a parent of a child who is parentally placed in a private school at the parent's expense refuses consent to an evaluation, the district may not use due process to override the lack of consent. (EC 56321)

Specific Learning Disability Eligibility

Educational Code Section 56337 defines if a pupil has a "specific learning disability" with new IDEA language in Section 1414 of Title 20 of the United States Code. The LEA shall not be required to take into consideration whether a pupil has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. An LEA may use a process that determines if the pupil responds to scientific, research-based intervention as part of the assessment procedures.

Legal References:

CODE OF REGULATIONS, TITLE 5

3021 Regular education attempts prior to referral

EDUCATION CODE

44265.5 Professional preparation for teachers of impaired students

56000 – 56885 Special education programs, especially:

56195.8 Adoption of policies

56300 -- 56304 Identification of individuals with disabilities

56303 Regular education resources utilized prior to referral

56304 Alternative means of IEP meeting participation

56043 (c) (I) Primary timelines affecting special education programs

56302.1 (a) Timelines affecting special education initial assessment

56320 – 56331 Assessments and assessment materials
 56321 Informed parental consent
 56321.1 Informed consent-wards of the state
 56329 Determining Eligibility
 56333 Eligibility Criteria
 56337 Specific Learning Disability eligibility
 56339 Attention Deficit and Hyperactivity Disorders
 56340 – 56347 Instructional planning and individualized education program
 56344 Timelines affecting special education IEP development
 56350-56352 IEP for Visually Impaired Students
 56381 Timelines affecting special education reassessment
 56425 – 56432 Early education for individuals with disabilities
 56441.11 Eligibility criteria, children ages 3-5
 56445 Transition to grade school; reassessment
 56500 – 56509 Procedural safeguards
 GOVERNMENT CODE
 95000-95029 California Early Intervention Services Act
 CODE OF REGULATIONS, TITLE 5
 3021-3029.1 Identification, Referral and Assessment
 3030-3031.1 Eligibility Criteria
 UNITED STATES CODE, TITLE 20
 1232g Family Educational Rights and Privacy Act of 1974
 1412 State Eligibility
 1415 Procedural Safeguards
 CODE OF FEDERAL REGULATIONS, TITLE 34
 104.35.1 Evaluation and Placement
 104.35.2 Procedural Safeguards
 300.1-300.756 Assistance to States for the Education of Students with Disabilities
 COURT DECISIONS
 Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997
 (cf. 0430 – Comprehensive Local Plan for Special Education)
 (cf. 1312.3 – Uniform Complaint Procedures)
 (cf. 3541.2 – Transportation for Students with Disabilities)
 (cf. 4112.23 – Special Education Staff)
 (cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))
 (cf. 5145.6 – Parental Notifications)
 (cf. 6159 – Individualized Education Plan)
 (cf. 6159.1 – Procedural Safeguards and Complaints for Special Education)
 (cf. 6159.2 – Nonpublic, Nonsectarian School and Agency Services for Special Education)
 (cf. 6159.3 – Appointment of Surrogate Parent for Special Education Students)
 (cf. 6162.51 – State Academic Achievement Tests)
 (cf. 6162.52 – High School Exit Examination)
 (cf. 6164.41 – Children with Disabilities Enrolled by Their Parents in Private School)
 (cf. 6164.6 – Identification and Education Under Section 504)

CLASSIFICATION: INSTRUCTION

SUBJECT: IDENTIFICATION AND EVALUATION OF
INDIVIDUALS FOR SPECIAL EDUCATION; CHILD FIND

Adopted: 00/00/0000

Revised: 00/00/0000

First Reading: 3/20/15

Second Reading: 4/24/15

Adopted: 5/29/15

Child Find The Superintendents' Council recognizes the need to actively seek out and evaluate district residents from birth to age 21 inclusive within its member districts and LEAs who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021) The term "evaluation" is used synonymously with "assessment" to designate the process for identifying children with disabilities and conducting the triennial evaluations.

Initial Evaluation for Special Education Services

Before the initial provision for special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by the district, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be represented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has

already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329 (d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision or special education services. (Education Code 56321; 34 CFR 300.300)

Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

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

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of the student. The district shall maintain a record of its attempts to obtain consent, including: (Education Code 56321. 56341.5; 34 CFR 300.300, 300.322)

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

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exist: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

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

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56344; 34 CFR 300.300.300.301)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related service providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (Education Code 56329; 34 CFR 300.306)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56043; 34 CFR 300.306)

Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (Education Code 56329; 34 CFR 300.502)

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (Education Code 56329; 34 CFR 300.502)

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an IEE is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (34 CFR 300.502)

If any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

(cf. 5148.3 – Preschool/Early Childhood Education)

CLASSIFICATION: Instruction**Adopted: 8/2007****Revised: 3/2016****SUBJECT: CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS****First Reading: 3/18/16****Second Reading: 4/22/16****Adopted: 4/22/16**

The Superintendent's Council recognizes the obligations under federal and state law of member school districts to 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 member district. The Superintendent's Council also recognizes the obligation under federal and state law of member districts to provide equitable services 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 member district.

The member district and LEA superintendent or designee shall ensure that activities to locate, identify and evaluate students with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities ages three to 21 inclusive in public schools within the district. The SELPA will on an annual basis place an advertisement in the local newspaper regarding child find, and send a private school child find brochure to private schools located in the SELPA.

The member district and LEA superintendent or designee shall develop a budget for the provision of services to children with disabilities enrolled by their parents/guardians in private school based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees, and the types of services to be provided.

Legal References:**EDUCATION CODE**

| | |
|-------------|---|
| 56000 | Education for individuals with exceptional needs |
| 56020-56035 | Definitions |
| 56170-56177 | Children in private schools |
| 56195.8 | Adoption of policies for programs and services |
| 56300-56385 | Identification and referral, assessment |
| 56500-56509 | Procedural safeguards, including due process rights |
| 56600-56606 | Evaluation, audits and information |

UNITED STATES CODE, TITLE 20

| | |
|-----------|--|
| 1232g | Family Educational Rights and Privacy Act |
| 1400-1482 | Individual with Disabilities Education Act |

UNITED STATES CODE, TITLE 29

| | |
|-----|---------------------------------------|
| 794 | Section 504 of the Rehabilitation Act |
|-----|---------------------------------------|

CODE OF FEDERAL REGULATIONS, TITLE 34

| | |
|-----------------|---|
| 300.1-300.818 | Assistance to the states for the education of students with disabilities, especially: |
| 300.130-300.144 | Children with disabilities enrolled by their parents in private schools |

CLASSIFICATION: Instruction

SUBJECT: CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS

Adopted:
Revised: NEW
First Reading: 3/18/16
Second Reading: 4/22/16
Adopted: 4/22/16

OVERVIEW

Districts are required to conduct a thorough "child find" process to determine the number of parentally placed children with disabilities attending private schools located in the district. The requirements of this administrative regulation do not apply to those situations in which a district has placed a student with a disability in a private school as a means of fulfilling the district's obligations to provide a free appropriate public education (FAPE).

Parentally placed private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state.

Private school or facility means a private, non-profit full-time day school, including a religious school, located within district boundaries, that provides elementary or secondary education, and has filed an affidavit with the California Department of Education pursuant to and is registered in the California Private School Directory.

Consultation with Private Schools

To ensure timely and meaningful consultation, a local educational agency shall annually consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children. Such consultation shall include:

1. The child find process and how parentally placed private school children suspected of having a disability can participate equitably.
2. How parents/guardians, teachers, and private school officials will be informed of the child find process.
3. The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities and how this share is calculated.
4. How the consultation process will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services.

5. How, where, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made.

When meaningful and timely consultation has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. After the consultation has occurred, the district shall ensure an annual count of the number of parentally placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year.

Provision of Service

A parentally placed private school child has no individual right to receive some or all of the special education and related services that he/she would have received if enrolled in the public school. Rather, the public school must meet with private school officials and representatives of private school children with disabilities to decide how to spend the money on all of the identified children.

Services Received Through the IEP Process

Should the student be found eligible for special education services, the student's district of residence (DOR) is responsible for completing the IEP process within 60 days of the parent's consent for assessment. This process includes, among other things, the development of goals to address identified needs, consideration of special factors, supplementary aids and services, and an offer for a free appropriate public education (FAPE) in the least restrictive environment (LRE).

When the IEP team has determined that a private school setting is the LRE in which to provide appropriate services, such services shall be provided at no cost to the parents. In these instances, the LEA obligation to serve the student is the same as if the student attended the public school.

When the IEP team has determined that a public school setting is the LRE in which to provide appropriate services, it is important that the parents understand that (1) the IEP will be implemented should the parent enroll their child in the public school setting and (2) that the student has no individual right to such services should the parents maintain their child's enrollment in the private school setting. If the parents elect to maintain their child's enrollment in the private setting, the DOR must obtain the parents' written confirmation that they understand that the district has made a FAPE available and that it is ready, willing and able to implement it, but that they are not interested in a public school placement. The DOR should thereafter annually inform the parents in writing of the availability of a FAPE and develop an IEP for the student unless the parents are not interested in a public school placement.

No LEA is required to pay for the cost of educating a child with a disability at a private school if the LEA made FAPE available to the child and the parents voluntarily elected to place the child in a private school. At each evaluation and IEP meeting, the parents will be given a copy of the *Notice of Parental Rights and Procedural Safeguards*. Disputes regarding whether a LEA offered FAPE to the child (as well as the initial

identification and evaluation of parentally placed private school children with disabilities) may be resolved pursuant to local and state policies and procedures.

Service Received Through the ISP Process

If parents are interested in available services under an ISP, they must inform the district where the private school is located. If the child is eligible for special education services under the private school protocol, the district of services (DOS) will develop the ISP and will review the ISP on an annual basis.

Pre-School Children

Preschool is not considered a private school and does not follow any of the private school procedures or requirements. This includes children under the age of six who are parentally enrolled in a private preschool (e.g. KinderCare, La Petite, etc.) instead of a public preschool (e.g. Head Start, State Preschool, etc.). The district of residence is responsible for child find and offering and implementing FAPE on an IEP.

Identification and Evaluation of Individuals for Special Education

The district where the private school is located, not the district where the child resides, is required to conduct individual evaluations and subsequent reevaluations of private school children with disabilities for purposes of determining the provision of equitable services.

If after an evaluation, the district where the private school is located determines that the child needs special education and related services, it would be the responsibility of the district where the child resides to make FAPE available. If the parent/guardian makes clear his/her intention to keep the child enrolled in private school, then the district of residence need not make FAPE available to the child, nor develop an individualized education program (IEP). In such a case, it is recommended that the district obtain written confirmation of that intention from the parent/guardian.

Legal References:

EDUCATION CODE

| | |
|-------------|---|
| 56000 | Education for individuals with exceptional needs |
| 56020-56035 | Definitions |
| 56170-56177 | Children in private schools |
| 56195.8 | Adoption of policies for programs and services |
| 56300-56385 | Identification and referral, assessment |
| 56500-56509 | Procedural safeguards, including due process rights |
| 56600-56606 | Evaluation, audits and information |

UNITED STATES CODE, TITLE 20

| | |
|-----------|--|
| 1232g | Family Educational Rights and Privacy Act |
| 1400-1482 | Individual with Disabilities Education Act |

UNITED STATES CODE, TITLE 29

| | |
|-----|---------------------------------------|
| 794 | Section 504 of the Rehabilitation Act |
|-----|---------------------------------------|

CODE OF FEDERAL REGULATIONS, TITLE 34

| | |
|-----------------|--|
| 300.1-300.818 | Assistance to the states for the education of students with disabilities |
| 300.130-300.140 | Children with disabilities enrolled by their parents in private schools |

CLASSIFICATION: ROLES AND RESPONSIBILITIES

SUBJECT: FACILITIES

Adopted: 6/01

Revised: 3/2015

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Philosophy

West End SELPA and participating districts believe that all children are equally valuable and are deserving of an appropriate learning environment. Accordingly, facility needs of both general and special education students will be considered and equally weighted in deciding classroom assignments. School facilities for all children will meet the standards mandated by the Education Code and other applicable laws.

It is recognized that appropriate facilities affect the quality of the learning environment. Therefore, West End SELPA and participating districts commit to working with the state legislature and through other available avenues to procure adequate funding to ensure appropriate educational facilities for all children.

The effectiveness of educational programs is enhanced when supported by an efficient support staff housed in appropriate facilities. Accordingly, support facilities will be periodically reviewed to assure support and administrative staff facility needs are adjusted to reflect changing requirements.

CLASSIFICATION: CONCEPTS AND ROLES

SUBJECT: FACILITIES

Adopted: 6/01

Revised: 3/2015

First Reading: 9/25/15

Second Reading: 12/11/15

Adopted: 1/22/16

Expenditure of funds for a building project using SELPA funds requires approval of the Superintendents' Council.

In recognition of the need for West End SELPA districts to provide appropriate classroom facilities for SBCSS West End Student Services as well as regional provider programs, the Superintendents' Council agrees to the following:

1. Each member district will provide classroom space on comprehensive school sites (classroom size commensurate with general education classroom size, approximately 960 square feet) equal to the percentage of students served by SBCSS West End Student Services operated programs as well as regional provider programs. For districts providing less than or more than required, an annual SELPA Reimbursement Rate charge or credit will be assessed as appropriate. The SELPA Reimbursement Rate will be based on the SELPA Housing Equity Rate.
2. Agreements for special centers shall be approved by the Superintendents' Council and the California Department of Education.
3. SBCSS West End Student Services staff shall work cooperatively with districts to establish eligibility for State building funds.
4. Member districts will work cooperatively with SBCSS West End Student Services staff in planning for future school facilities.
5. When the need arises to move or make classroom changes, SBCSS West End Student Services or a regional program provider will work with individual school districts. Moves and changes made at the district's request will be that district's financial responsibility.

Definition Of Adequate Space for County And Regional Provider Operated Special Education Classrooms on District Campuses

- A) Adhering to the square footage specifications of Part 30 of the Education Code Section 17047 OR provision of a classroom of the same square footage allocated for a general education class of the same age/grade level.
- B) Bathroom facilities included within the classroom area for classes with students who require diapering and/or toilet training (such as the severely and profoundly handicapped [SPH] and

preschool classes) is required. Bathroom space in the classroom or within one hundred feet of the classroom is desirable for other classes, but not required.

- C) Space that is not isolated from the remainder of the campus is preferable.
- D) District is to provide student and staff furniture as appropriate at a standard comparable to district classrooms, unless the County is eligible for funds for classroom furniture and equipment allowance, in which case County shall provide all furniture for the classroom.
- E) Classroom space will be provided at the age appropriate grade level setting where needs are identified, such as elementary, middle school, or high school.

Legal References
EDUCATION CODE
EC 17047