



# **A Parent's Guide To Special Education Services**

**(Including Procedural Rights and Safeguards)**



**Tri-Valley SELPA**

**Revised  
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## INTRODUCTION

The teachers, administrators, and staff of the Tri-Valley SELPA believe in the equal worth and dignity of all students and are committed to educate all students to their maximum potential. It is our mission to maximize learning for all students within an inclusive environment so that each student will contribute to and benefit from our diverse society.

This guide provides you with the information you need to understand the special education process. It explains your rights, the rights of your child, and how to exercise them under the Federal Individuals with Disabilities Education Act and the California Education Code.

The guide also serves as your notice of procedural safeguards required to be provided to you by Federal and State law. You will receive a copy once a school year and:

- The first time your child is referred for a special education assessment or the first time you request an evaluation.
- The first time you file a State complaint, request mediation only, or request a due process hearing in a school year.
- Whenever a decision is made to take a disciplinary action that constitutes a change in placement.
- When you revoke consent for continued provision of special education and related services for your child.
- When you ask for a copy.

Please refer to the Table of Contents to find the information that you need. We hope this guide will help you work with your school and the District to provide the most appropriate education for your child.

## **FURTHER INFORMATION**

If after reading this guide you would like more information about special education or have further questions regarding your child's education, you may contact your child's teacher, the school principal, and/or your district's Special Education Administrator for assistance. Contact information is on the back cover. In addition, you may call:

### **Community Advisory Committee (CAC)**

The CAC, mandated by California law, is composed of parents, students and adults with disabilities, teachers, other school personnel, representatives from other agencies, and persons concerned with the needs of individuals with disabilities. The CAC advises the District on the development of its Special Education Local Plan Area (SELPA) Local Plan. The CAC conducts meetings regularly. For information regarding meeting dates, please call (925) 426-9144.

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## **SPECIAL EDUCATION SERVICES**

### **Does Your Child Need Special Education Services?**

The Tri-Valley SELPA is committed to serving the educational needs of each of its students. Each District school has a process that brings together the parent or guardian, the student, if appropriate, and school personnel to address any problem that interferes with a student's success in school. This team is the Student Success Team (SST). The team is responsible for identifying the student's needs, providing referrals to appropriate interventions, and developing a plan to enable the student to be successful.

A student with a disability may qualify for accommodations or classroom modifications under Section 504 of the Rehabilitation Act of 1973. You or your child's teacher may submit a written request to the school administrator for a Section 504 evaluation of your child in order to determine whether accommodations or modifications might be appropriate. You will be notified when the evaluation meeting is to take place, and you are encouraged to participate in this meeting. Your child may then be provided with accommodations, modifications, and intervention strategies in the general education classroom. For further information on Section 504, see the District's *Section 504 and Students with Disabilities* brochure.

Sometimes, however, students may require special education and related services. Eligibility for special education is determined by an Individualized Education Program (IEP) team after a student has had a formal assessment. Students receive special education services only after all the resources of the general education program have been considered.

### **What are Special Education Services?**

Special education services are specially designed instruction to meet the unique educational needs of children with disabilities who meet the eligibility criteria under the law. Special education services can begin at age three (3) and may continue until your child graduates or reaches the age of twenty-two (22).

### **What are Related Services?**

Related services are transportation, developmental, corrective, and other supportive services that are needed to assist a child in benefiting from special education services.

### **Are There Services for Children Younger Than Age Three?**

In California, children with disabilities younger than three (3) years of age may qualify for early intervention services which help enhance their development. Children who qualify for early intervention services will receive services from the District if they have, solely, a visual, hearing, or severe orthopedic impairment. All other children in this age range who exhibit developmental delays or have established risk conditions with harmful developmental consequences will receive early intervention services from their local Regional Center. For further information, call the Tri-Valley SELPA office.

## **When is a Child Eligible for Special Education Services?**

A child is eligible for special education services if an IEP team determines that the child has a disability and requires special education services to progress in his/her education.

The disabilities include:

- Autism
- Deafness
- Deaf-Blindness
- Emotional Disturbance
- Established Medical Disability (Only for children ages 3-5)
- Hearing Impairment
- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment

## **THE SPECIAL EDUCATION PROCESS**

The special education process determines whether or not your child is eligible for special education and related services and if so, what special education and related services are appropriate for your child.

There are four basic steps in the special education process:

**STEP 1: Referral for Assessment**

**STEP 2: Assessment**

**STEP 3: Development and Implementation of an Individualized Education Program (IEP)**

**STEP 4: IEP Review**

### **STEP 1: Referral for Assessment**

A parent, guardian, teacher, other school personnel, and community members who believe that a child may need special education services may request a special education assessment of the child. The request should be made in writing and provided to the school principal. Once a request for assessment is received at the school, you will be provided a written response within fifteen (15) days, not counting school vacations longer than five (5) days. If the District determines that an assessment is appropriate you will receive two forms, *Special Education Assessment Notification* and *Special Education Assessment Plan*. If the District determines that an assessment of your child is not appropriate you will receive written notice of this decision. You may appeal this decision utilizing one of the dispute resolution processes described in the section, "Your Right to Procedural Safeguards to Resolve Disagreements over What Is Appropriate for Your Child" in this Guide.

The *Special Education Assessment Plan* describes the types and purposes of the assessments which may be used to determine your child's eligibility for special education services. Before your child can be assessed, you must consent to the assessment by signing the plan. Your school is required to make reasonable efforts to obtain your informed consent for an initial evaluation. You have at least fifteen (15) days from the receipt of the *Special Education Assessment Plan* to consent to the plan by signing it. The school has sixty (60) days, not counting school vacations greater than five (5) days, from the receipt of your signed Assessment Plan to complete the assessment and hold an IEP meeting. If your child is enrolled or you are seeking to enroll your child in a public school and you refuse to provide consent or if you fail to respond to a request for consent for an initial evaluation the District may, but is not required to, request a due process hearing to obtain an order from an Administrative Law Judge allowing for an evaluation without parental consent. The District cannot

override your lack of consent if you have enrolled your child in a private school at your own expense or if you are home schooling your child.

If a child is a ward of the State and is not living with his or her parent, the District does not need consent from the parent for an initial evaluation if:

1. Despite reasonable efforts, the District cannot find the child's parent;
2. The rights of the parent have been terminated in accordance with State law; or
3. A judge has assigned the right to make educational decisions to an individual other than the parent.

## **STEP 2: Assessment**

An assessment involves gathering information about your child to determine whether your child has a disability and the nature and extent of special education services that your child may need. Assessments may include individual testing, observations of the child at school, interviews with the child and school personnel who work with the child, and review of school records, reports and work samples.

### **During the assessment:**

- Your child will be assessed in all areas related to his or her suspected disability.
- A multidisciplinary team, including at least one teacher or other specialist with knowledge in the area of your child's suspected disability, will assess your child.
- The assessment will be conducted in the language and form most likely to yield accurate information on what your child knows and can do academically, developmentally, and functionally unless it is not feasible to provide or administer. When necessary, a qualified interpreter will be used to assist with the assessment.
- The assessment will include a variety of appropriate tests to measure your child's strengths and needs. The persons administering these tests will be qualified to do so.
- The assessment will be adapted for students with impaired sensory, physical, or speaking skills.
- Testing and assessment materials and procedures will not be racially, culturally, or sexually discriminatory.

### ***Your Right to an Independent Educational Evaluation of Your Child***

You have the right, at any time, to obtain at your expense an assessment by a qualified examiner who is not employed by the school district (i.e., an independent assessor) and have the findings from the assessment considered at an IEP meeting. You may also present the assessment report as evidence at a due process hearing regarding your child.

You also have the right to request that the District pay for an independent educational evaluation of your child if you disagree with the District's assessment. If you request an independent assessment at District expense, the District may either (1) agree to fund the assessment or (2) initiate due process proceedings to show its assessment was proper. If the District utilizes the due process proceedings and the final decision of the hearing officer is that the District's assessment was proper, you still have the right to an independent educational evaluation, but you will be required to pay for that evaluation.

Whenever the District pays for an independent educational evaluation, the criteria under which the assessment is obtained, including the location of the assessment and the qualifications of the examiner, must be the same criteria used by the District when it initiates an assessment.

You are entitled to only one independent evaluation of your child at public expense each time the District conducts an evaluation with which you disagree.

### **STEP 3: Development and Implementation of an Individualized Education Program (IEP)**

After your child has been assessed, an Individualized Education Program (IEP) meeting will be held. The IEP meeting will be held at a time and place reasonably convenient for both you and the District's representatives. At this meeting, the IEP team will discuss the assessment results and determine whether your child is eligible for special education services. An IEP will be developed during the meeting.

#### **IEP Team Meeting Introductory Statements**

- An IEP meeting is a collaborative process, and all participants will be provided the opportunity to ask questions and provide recommendations and suggestions;
- The IEP team has the authority and responsibility to design a program in which the child can derive meaningful benefit;
- The draft IEP, behavior intervention plan, or assessment plan might change as a result of the IEP team's deliberations;
- The decision on related services and placement will occur during the IEP meeting, unless the team agrees that there is not sufficient information to make a placement determination;
- The District considers the family equal partners in the educational decision-making process; and
- Any team member may propose an objective or goal in the IEP, even if it is not included in the Welligent goal bank.

#### **The following people are members of the IEP team:**

- You, as the child's parent or guardian, and/or your representative;
- A school administrator;
- A special education teacher or a special education provider when appropriate;
- A general education teacher if your child is or may be participating in general education;
- Other persons, such as your child, whom you or the school wish to invite; and
- A person knowledgeable about the assessment procedures used to assess your child, familiar with the results of the assessment, and qualified to interpret the instructional implications of the results. This may be one of the persons described above.

There are circumstances where members of the IEP team can be excused from attending, with your written approval.

#### ***Will I Receive Notice of the IEP Team Meeting?***

The school will provide you with written notice of the IEP team meeting, *Notification to Participate in an Individualized Education Program Meeting*, within a reasonable time prior to the meeting. This notice will include: the date, time, and place of the meeting; the reason for the meeting; and who will be at the meeting.

You are an important member of the IEP team. If you cannot attend the IEP team meeting, you may ask the school to reschedule the meeting. The school will also try to facilitate your participation using other methods, such as conferencing by telephone or videoconferencing. The school must ensure that you understand what is going on at the meeting. For example, the school will provide you with an interpreter if you have a hearing disability or an oral interpreter if your primary language is not English.



### ***What is an IEP?***

The IEP is a written document developed and agreed to by an IEP team that determines:

- Your child’s present levels of educational and functional performance and educational and functional needs.
- The annual goals and objectives your child is to achieve.
- The special education and related services, accommodations and modifications your child needs and will receive.
- Beginning with the year your child will turn age 14, an Individual Transition Plan (ITP) designed to assist your child’s transition from school to post-school activities.
- The appropriate placement, in the least restrictive environment, for your child.
- Whether your child requires transportation services.
- How your child’s progress will be assessed and reported to you.

You will receive a copy of the IEP at the IEP team meeting. If you do not attend the IEP team meeting, the IEP will be explained and a copy will be mailed to you. You have the right to agree or disagree with any part of the IEP. The school is required to get your consent to the IEP before your child receives special education services. Upon your written request, you will be given a copy of the IEP in your primary language, whenever feasible.

### ***What Programs, Supports, and Services are available?***

The Division of Special Education provides a continuum of program options to students found eligible for special education. Individualized Education Program (IEP) teams must consider the general education classroom first in exploring the best setting for the delivery of special education services to students with disabilities. Special education services and supports are provided in a variety of ways including, but not limited to:

- 1) Regular education program
  - a. Regular education program is synonymous with the term “general education”. General education is the program of education that children should receive, based on state standards and evaluated by the annual state educational standards-based assessments.
- 2) Resource specialist program
  - a. The resource specialist program provides:
    - i) Instruction and services for students whose needs have been identified in an IEP and who are assigned to regular classrooms for the majority of the school day.
    - ii) Coordination of special education services with the regular school programs for students with disabilities enrolled in the resource specialist program.
    - iii) Services in different models (i.e. collaborative planning and teaching, direct instruction to students, consultation with staff and parents.)
- 3) Designated instruction and services (also referred to as “Related Services”)
  - a. Speech and language services:
    - i) School based Speech Therapy supports the educational program for students who have a disorder in communication involving articulation, language, fluency, and/or voice.
    - ii) Speech and Language Pathologists (SLP) work as members of a multidisciplinary team that serves children school-wide in the development of communication and language skills needed for school success.

- iii) Delivery depends upon the assessed needs of the student (i.e. direct services, consultation, group services, parent training.)
- b. Audiological services:
  - i) Audiologic evaluations are provided by Educational Audiologists for children from birth - 22 years of age.
  - ii) If a child is not testable at the Audiological Resource Unit (ARU), the audiologists refer the child to his/her private physician or audiologist and follow-up accordingly with the family.
  - iii) District schools and pre-school programs refer students to the ARU that they suspect may have a hearing loss either by a failed audiometric screening or because of teacher or parent concerns.
- c. Orientation and mobility services:
  - i) Provided to students with visual impairments in the area of specialized skills, including the use of the white cane, to travel in a safe and oriented manner.
  - ii) Instruction designed to promote equal access as well as integrated opportunities within a student's classroom, school, and community environments.
- d. Instruction in the home or hospital provides:
  - i) Services for students who are home or hospital bound and are eligible for instructional services on their first day of confinement when the confinement is anticipated to result in an absence of at least ten (10) school days as verified by the medical diagnosis of a California licensed physician.
  - ii) Instruction in subjects and courses correlating with the student's home school program. It does not replace, over an extended period of time, the regular required instructional program.
- e. Services for pupils with chronic illnesses or acute health problems:
  - i) Specialized services may be provided to pupils determined eligible pursuant to section 3030(f). Such services include but are not limited to:
    - a. Individual consultation;
    - b. Home or hospital instruction; and
    - c. Other instructional methods using advanced communication technology.
  - ii) For pupils whose medical condition is in remission or in a passive state, the IEP team shall specify the frequency for monitoring the pupil's educational progress to assure that the illness does not interfere with the pupil's educational progress.
  - iii) When a pupil identified pursuant to section 3030(f) experiences an acute health problem which results in his or her non-attendance at school for more than five (5) consecutive days, upon notification of the classroom teacher or the parent, the school principal or designee shall assure that an IEP team is convened to determine the appropriate educational services.
  - iv) If there is a pattern of sporadic illness, the IEP team shall convene to consider alternative means for the pupil to demonstrate competencies in the required course of study so that the cumulative number of absences does not prevent educational progress.
- f. Adapted physical education services provide:
  - i) Adapted Physical Education (APE) for individuals with disabilities who have a significant motor deficit in one or more of the following areas: perceptual motor skills, locomotor skills, object control skills, physical fitness, and adaptive behaviors that cannot safely and successfully participate in the general physical education program.
    - a. APE has different service delivery models for students with varying disabilities. Service delivery models include direct/co-teaching, specially-designed, collaboration, and consultation. It is recommended that general

and adapted physical educators use a collaborative, consultation, or co-teaching approach to provide the maximum amount of joint participation between disabled and non-disabled children.

- g. Physical and occupational therapy services:
  - i) Physical therapy
    - a. School Physical Therapy (PT) focuses on students and their achievement of purposeful, goal-directed activities that improve their functional performance during their school day.
    - b. School Physical Therapy assesses and provides intervention for students' needs based on their medical diagnoses and impact on their ability to physically access their school campus. Areas of assessment include analysis of potential environmental barriers and physical access, as well as underlying issues, including posture, balance, strength, coordination, motor control, mobility, gross motor skills, and endurance.
    - c. School physical therapy may involve task or environmental adaptations, and PT intervention may consist of a combination of direct treatment/intervention, consultation, collaboration, and monitoring, as well as consultation and intervention for all students.
  - ii) Occupational therapy
    - a. School Occupational Therapy (OT) is a support service to a student's special educational program emphasizing the importance of performance in the school environment.
    - b. School Occupational Therapy assesses and addresses the following underlying performance areas: postural stability, fine motor skills, visual perception, visual motor integration, sensory processing, and self-care during the school day and social participation.
    - c. Occupational Therapy services may include adaptation of a task or the environment and consists of a combination of direct intervention, consultation, and monitoring.
- h. Vision services provide:
  - i) Blind partially sighted services to eligible students with a documented visual impairment (VI) diagnosis that is provided from an ophthalmologist or an optometrist and a Functional Vision Assessment that impacts the student's academic performance in the core curriculum or alternate curriculum.
  - i. Services from VI itinerant services to students in general education classrooms.
  - j. Services in a VI special day program on a general education campus.
  - k. Itinerant services for students at a special education school.
- l. Counseling and guidance services, including rehabilitation counseling provide:
  - i) Educational counseling provided by school psychologists and/or school social workers in which the pupil is assisted in planning and implementing his or her immediate long-range educational program and/or personal counseling in which the pupil is helped to develop his or her ability to function with social and personal responsibility.
- m. Psychological services other than assessment and development of the IEP:
  - i) Educationally Related Mental Health Services (ERMHS) involves intensive counseling services intended to ameliorate learning and behavioral problems of individuals or groups through applied psychotherapy. These services are typically provided by licensed clinical social workers (LCSW) or school psychologists in the public school setting.
- n. Parent Counseling and Training:
  - i) Training geared toward assisting parents in understanding the special needs of

their child and providing parents with information about child development. These trainings are held at school sites or local districts offices through the District by LCSWs or school psychologists.

- o. Health and nursing services provide:
  - i) Health assessments as part of the IEP process.
  - ii) Recommendations to IEP teams regarding necessary supports and accommodations due to health reasons.
  - iii) Health related services defined in the IEP, including physical health care procedures.
  - iv) Assistance to students who have extensive health needs including medical protocols.
  
- p. Social worker services provide:
  - i) Individual and/or group counseling for students and his/her immediate family.
  - ii) Consultation with students, parents, teachers, and other personnel regarding effects of family and other social factors on the learning and developmental requirements of individual students with exceptional needs.
  - iii) Developing a network of community resources, making appropriate referrals, and maintaining liaison relationships among the school, the students with exceptional needs, the family, and the various agencies providing social, income maintenance, employment development, mental health, or other developmental services.
  
- q. Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services:
  - i) Assistive technology (AT):
    - a. Tools required to maintain, improve, or increase functional capabilities to bridge the gap between student's performance and demands of the curriculum.
    - b. Provides access to the curriculum through a range of supports based on the individual needs of the student.
  - ii) Interpreters, notetakers, readers, transcribers, and other individuals provide specialized materials and equipment for students with low incidence disabilities as determined by student's assessed needs.
  
- r. Interpreting services provide:
  - i) Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation for students who are identified as deaf or hard of hearing.
  - ii) Special interpreting services for children who are deaf-blind.

4) Special Classes

a. Special Day Class (SDC) Mild-Moderate

- i) The SDC-MM program is designed for students with disabilities who are participating on the general education/core curriculum and are working toward a high school diploma. Some students may require State/District approved waivers to complete the diploma requirements. However, some students in the SDC-MM program will earn a certificate of completion if all District and State graduation requirements are not met.
- ii) Students enrolled in SDC-MM programs are assigned to special education classroom teachers for a majority of a school day (usually more than 50%), and those minutes are counted as outside of the general education program.
- iii) Whenever appropriate and feasible, students from the SDC-MM program may be included/mainstreamed in general education classes or programs, especially when a particular course or activity is not offered within the special day program.
- iv) The curriculum to be used in SDC MM programs is the Districts approved core curriculum, and teachers may supplement the curriculum with targeted or intensive materials and instruction as appropriate.

b. Special Day Class (SDC) Moderate-Severe

- i) The alternate curriculum special day program (SDC-MS) is a setting that serves pupils with moderate-to-severe disabilities which impact the student's academic, non-academic, cognitive, and adaptive/daily living functioning.
- ii) Students enrolled in SDC-MS programs are assigned to special education classroom teachers for a majority of a school day (more than 50%), and those minutes are counted as outside of the general education program.
- iii) At the high school level, the SDC-MS program is designed for students with disabilities who will not enroll in the "a-g" sequence of courses or work toward a diploma and will instead work toward a certificate of completion.
- iv) Whenever appropriate and feasible, students enrolled in the SDC-MS programs may be included/mainstreamed in general education classes or programs pursuant to their IEPs in order to provide opportunities to engage with typical peers in the least restrictive environment.

- 5) Nonpublic, nonsectarian school services
- a. Nonpublic, nonsectarian school means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an IEP, employs staff with appropriate credentials authorizing special education services, and is certified by the State.
  - b. The governing board of the District may contract with State-certified nonpublic, nonsectarian schools or agencies to provide special education services when an appropriate public education program is not available.
  - c. Contracts with the nonpublic school or agency contain assurances that the school or agency will comply with applicable Federal and State laws and regulations.
  - d. Placement at a nonpublic, nonsectarian school will be reviewed annually at the IEP meeting.

- 6) State Special Schools
- a. The State operates three special schools in California: California School for the Deaf, Riverside; California School for the Deaf, Fremont; California School for the Blind, Fremont.
  - b. State Special Schools may be considered by an IEP team if an appropriate public education program is not available in the District.

- 7) Extended School Year
- Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disabling condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the IEP team determines the need for such a program and includes extended school year in the IEP.

- a. Extended year special education and related services shall be provided by the school district offering programs during the regular academic year.
- b. Individuals with exceptional needs who may require an extended school year are those who:
  - i) Are placed in special classes; or
  - ii) Are individuals with exceptional needs whose IEPs specify an extended year program as determined by the IEP team.
- c. An extended year program, when needed, as determined by the IEP team, shall be included in the pupil's IEP.

- 8) Behavioral Intervention
- Behavioral interventions, supports, and other strategies are used in consideration of the student's physical freedom and social interaction, are administered in a manner that respects human dignity and personal privacy, and ensures a student's right to placement in the least restrictive educational environment.

- 9) Transportation
- Transportation is available as a related service if it is necessary for a student to receive FAPE. In making this determination, the IEP team must consider: (1) the needs of the student; and (2) the least restrictive form of transportation appropriate for the student.

Transportation is provided as a related service for students with disabilities if the following conditions exist:

- a. A student is placed by the District at a school other than their school of residence, which is referred to as the "home school." "Home school" is defined as the student's school of residence or school of choice.
- b. A student's disability prohibits them from getting to school in the same manner as their non-disabled

peers. If the student requires transportation, the justification must be included on their IEP.

***What is Placement in the Least Restrictive Environment?***

The IEP team determines type of placement or educational setting that is appropriate for providing your child the instruction he/she needs. In determining the appropriate placement, the IEP team must ensure that, to the maximum extent appropriate, your child is educated with his/her non-disabled peers and that special classes, separate schooling, or other removal from age-appropriate general education classrooms occurs only when the nature or severity of the disability is such that education in the general education classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

The continuum of placements from less to more restrictive includes:

General education schools

- General education classroom with accommodations and modifications
- General education classroom with supplementary aids and supports
- General education classroom with related services
- General education classroom with resource specialist services
- General education classroom and special day class program

Special day class program

- Special schools or centers
- Special day class program

Nonpublic schools

- Nonpublic school or center

Home or hospital

- Instruction in the home or hospital

Residential

- State special school\*
- Nonpublic school or center

Your child will be educated in the school he/she would attend if nondisabled unless the IEP team determines some other location is required to meet your child's needs identified in the IEP. That location will be as close as possible to your home.

\*State special schools provide services to students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three facilities: the California Schools for the Deaf in Fremont and Riverside and at the California School for the Blind in Fremont.

Residential and day school programs are offered to students from infancy to age 21 at both State Schools for the Deaf and from ages five through 21 at the California School for the Blind. The State special schools also offer assessment services and technical assistance. For more information about the State special schools, please visit the California Department of Education Web site at <http://www.cde.ca.gov/sp/ss/> or ask for more information from the members of your child's IEP team.

***When are transportation services provided?***

Determination of whether your child needs transportation to school or to participate in extracurricular activities is made by the IEP team. Transportation is usually needed if the special education placement, services, or activities are not at your child's school of residence. Transportation may also be needed due to personal factors such as health, social judgment, or lack of ability to communicate affecting the safety of your child. The IEP team also decides what accommodations or

modifications are necessary for your child to be transported safely.

Transportation is a service based on an identified need and is not provided for your convenience or that of your child. It is also not provided if you place your child in a school without the approval of the District.

After the IEP team determines that your child needs transportation, you will be notified as to where and when your child will be picked up and dropped off. It may take a few days longer if specialized equipment or arrangements are involved. For further transportation information call your District's Special Education Department.

***What if my child is Medi-Cal eligible?***

The following information about Medi-Cal is provided for parents of children with disabilities who are Medi-Cal eligible. As per the Individuals with Disabilities Education Act (IDEA) regulations, the Tri-Valley SELPA provides all required services as specified on a child's IEP at no cost to parents. However, your District can be reimbursed for the cost of those services from the Federal government's Medicaid program, which increases the ability to provide health-related services for all Tri-Valley SELPA students.

The cost of providing health-related services is high. Federal education funds only cover a fraction of the expenses. In 1986, Congress authorized schools to bill the Medicaid (note: in California, Medicaid is called Medi-Cal) program for certain health-related services. Many children and families who do not have other health insurance benefit from these services provided and supported by Medi-Cal funds in schools. In the case of students with disabilities, school-based health care is an efficient and effective mode of health care delivery. It saves parents the time and effort needed to travel between different clinics and hospitals for these services.

Services reimbursed by Medi-Cal currently include certain health services for all students in the District as well as specific services for students with disabilities. The health-related services for students with disabilities include both assessment and the treatment(s) specified on a student's Individualized Education Program (IEP) including: audiology, counseling, nursing services, occupational therapy, physical therapy, speech therapy, and transportation related to these services. Medi-Cal regulations set the same high professional standards for school-based providers as providers who work in hospitals, rehabilitation centers, and other settings.

Parents of students who are Medi-Cal eligible authorize their District to submit claims for reimbursement by Medi-Cal for Medi-Cal funded services when a parent signs for consent on a Special Education Assessment Plan or an IEP. The frequency of claims is aligned with assessment authorizations and/or the type and frequency of the Medi-Cal funded services a parent authorizes on the student's IEP. In seeking reimbursement, your District may need to release student records, medical information, and/or other information pertaining to a student. School-based Medi-Cal reimbursement does not affect the child's Medi-Cal benefits in other health care settings. There is no cap on Medi-Cal for students with disabilities in California.

The Tri-Valley SELPA never bills a family's private insurance for the health care services specified on a child's IEP. The Districts adhere to IDEA and its requirement to provide students with disabilities with a free and appropriate public education (FAPE). Parents of students who are Medi-Cal eligible authorize their District to submit claims for reimbursement by Medi-Cal for Medi-Cal funded services unless Parent(s) signs a Parent Medi-Cal Non-Authorization to Bill form.

Children qualify for Medi-Cal based on various factors including family income and disability. Parents interested in obtaining more information about Medi-Cal should check with their primary health care provider.



#### **STEP 4: IEP Review**

If your child is receiving special education services, his or her IEP will be reviewed at an IEP team meeting at least once a year to determine how well it is meeting his or her needs. In addition, every three years, your child will be reassessed as needed.

If there are concerns that your child's educational needs are not being met, either you or school personnel may request a reassessment or an IEP team meeting to review the IEP, at any time during the year. You may request an IEP team meeting by sending a written request to the school. Once your request is received, the meeting must be held within thirty (30) days, not counting school vacations greater than five (5) days. The school must get your permission before it reassesses your child. Reassessments will not occur more than once a year unless the District agrees that it is necessary.

#### **ADDITIONAL RIGHTS UNDER THE SPECIAL EDUCATION PROCESS**

In addition to the rights described in the previous pages, you also have the following rights:

- Your Right to Receive Prior Written Notice
- Your Right to Consent to Activities Involving Your Child
- Your Right to Revoke Consent for Continued Provision of Special Education and Related Services
- Your Right to Access Your Child's Educational Records
- Your Right to Procedural Safeguards to Resolve Disagreements Over What is Appropriate for Your Child
- Your Right to File a Complaint Using Uniform Complaint Procedures
- Your Right to be Protected from Discrimination and Harassment

#### ***Your Right to Receive Prior Written Notice***

The District will give you timely written notice before proposing or refusing to assess your child. In addition, you may receive prior written notice if the District proposes to change or refuses to change your child's identification, educational placement, or special education services.

The notice will include:

- A description of the action proposed or refused by the District.
- An explanation of why the action was proposed or refused.
- A description of any other options considered and the reasons those options were rejected.
- A description of the information used as a basis for the action proposed or refused.
- A description of any other factors relevant to the action proposed or refused.
- A statement that you are protected by the procedural safeguards described in this Guide.
- Information on how you can obtain a copy of this Guide (which describes the special education procedural safeguards).

You will also be notified prior to a long-term change in your child's educational program or placement. A long-term change is one that lasts for more than ten (10) school days. This includes your child's removal from school because of a suspension or expulsion.

Each notice will be written in language that is understandable to the general public and provided in your primary language or other mode of communication, unless it is clearly not feasible to do so. If it is not feasible to provide the written notice in your primary language or other mode of communication, the notice will be translated orally or by other means in primary language or other mode of communication.

### ***Your Right to Consent to Activities Involving Your Child***

You must give informed, written consent before your child's first special education assessment can proceed and before the District can provide special education services to your child. If you refuse to consent to the initial provision of services, the District cannot override your lack of consent and is not in violation of the law if it fails to provide the services offered.

In the case of reassessments or reevaluations, the District will make reasonable attempts to obtain your consent. If you do not respond to these reasonable attempts, the District may proceed with the reassessment without your consent. If you refuse to consent, the District may request a due process hearing to obtain an order from an administrative law judge allowing for an evaluation without parental consent. However, the District cannot override your lack of consent if you have enrolled your child in private school at your own expense or if you are home schooling your child.

There are other times when the District will seek your consent. For example, before releasing your child's educational records to your representative, the District will need your written consent. In this case, the District will list what records will be released and to whom. The District will only ask for your consent to activities specified under the law.

When you give your consent, it means:

- You have been fully informed of all relevant information in your primary language or other mode of communication.
- You understand what is being requested and agree that the District may carry out the activity for which it is seeking consent.
- You understand that giving your consent is voluntary and that you can change your mind at any time.

The District is not required to obtain your consent before reviewing existing data as part of your child's evaluation or reevaluation or when giving your child a test that is given to all children unless consent is required from all parents.

Your school may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

### ***Your Right to Revoke Consent for Continued Provision of Special Education and Related Services***

At any time, after the initial provision of special education and related services, you have a right to revoke consent in writing for the continued provision of special education and related services for your child. If you revoke consent, the District may not continue to provide special education and related services for your child. The District must, however, provide prior written notice before ceasing the provision of special education and related services.

### ***Your Right to Access Your Child's Educational Records***

Educational records are an important source of information about your child. They include information about his or her identification as a student with a disability, assessment results, and educational placement and services. These records are confidential.

You have the following rights concerning your child's school records:

- To inspect and review your child's records within five (5) business days of your request to do so and before any meeting regarding your child's IEP or any hearing regarding your child's identification, assessment, educational placement, or special education services. The District will not charge you to search for or to retrieve information regarding your child.
- To be given copies of your child's records within five (5) business days of your written or oral request. The District may charge you for the actual cost of reproducing these records, but if this cost prevents you from exercising the right to receive such copies, the copies will be reproduced

- at no cost to you.
- To receive a response to a reasonable request for explanations and interpretations of the records.
  - To have your representative inspect and review the records.
  - To be informed, upon request, of the types and locations of educational records collected, maintained, and used by the school.

These rights are applicable to records possessed by all public agencies that provide educationally related services to students with disabilities and those that educate students with disabilities in state hospitals or developmental centers and in youth and adult facilities.

Because they are confidential student records, your child's IEP and other special education documents will be accessible only to those who are authorized under the Federal Education Rights and Privacy Act (FERPA), such as the personnel responsible for implementing your child's educational program and those persons and agencies who need to access the information to comply with Federal and State laws and regulations. Your consent must be obtained before your child's records are disclosed to any person or agency not authorized under FERPA.

The District and other appropriate public agencies keep a record of individuals, except parents and authorized District employees, who access a student's educational records. This record includes the name of the individuals accessing the information, the date access was given, and the purpose for which they were authorized to use the records.

It is presumed that you, as the parent or guardian, have authority to inspect and review records relating to your child unless the District has been informed otherwise.

If any educational record includes information on a child or children other than your own, you have the right to inspect and review only the information relating to your child or to be informed of that specific information.

Special education records are maintained by the District for five (5) years after a student has completed the school program, after which time they are destroyed.

If you believe your child's records contain information that is wrong, misleading, or that violates the privacy or other rights of your child, you may request that the District change the information. The District will decide whether or not to grant your request within a reasonable period of time from the receipt of your request. If the District refuses to change the information, you will receive notice of that decision and your right to a hearing on the issue.

Upon request, the District will provide you with an opportunity for a hearing to challenge the information in your child's educational records. If the decision at the hearing is in your favor, the District will amend the information accordingly and inform you so in writing.

If the decision at the hearing is unfavorable to you, you will have the right to include in your child's records, a written statement of your objections to the information. This statement will be part of your child's school records until the information objected to is corrected or removed. If your child's records or the contested information is disclosed to anyone, your written statement will also be disclosed.

### ***Your Right to Procedural Safeguards to Resolve Disagreements Over What is Appropriate for Your Child***

If there is a disagreement about your child's assessment or IEP, you have the right to voice your concerns. You always have the option of discussing your concerns with District personnel at your child's school site to resolve any disagreement. If you consent in writing to your child receiving special education and related services, yet do not consent to all of the components of the IEP, those

components of the program to which you consent shall be implemented so as not to delay providing instruction and services to your child. You are not required to initiate any form of dispute resolution as to components of the IEP to which you do not consent. If you wish to initiate a dispute resolution process, you may choose from any of the following as listed below.

### **Alternative Dispute Resolution (ADR)**

Alternative Dispute Resolution or “ADR” is an optional dispute resolution process available to parents. ADR is a District process that is designed to be faster, less formal, and less adversarial than mediation and due process proceedings. The ADR process allows parents an opportunity to identify their issues and concerns and work with District administrator(s), or a neutral facilitator, in an effort to quickly resolve the identified issues.

If you disagree with components of your child’s proposed IEP and want to use the ADR process to resolve the disagreement, please notify the IEP administrator/designee. To assist with addressing your concerns, please discuss your issues and concerns with the IEP administrator/designee as soon as possible after the IEP team meeting.

If an agreement is reached during the ADR process, the terms of the agreement may be put in writing and signed by both parties and/or an IEP team meeting may be held to incorporate the terms of the agreement. Requesting ADR does not preclude you from filing for due process proceedings or mediation only.

### **Due Process Proceedings**

Due Process proceedings are dispute resolution processes required to be available to parents and school districts under the Individuals with Disabilities Education Act (IDEA). You or the District may file a due process complaint on any matter relating to a proposal or refusal to initiate or change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) for your child.

Due Process proceedings begin with the submission of a complaint notice. The Office of Administrative Hearings (“OAH”) is the State agency that governs due process proceedings for the state of California. Due Process proceedings include Mediation Only and Due Process Hearing requests.

### **Mediation Only**

“Mediation Only” is a voluntary dispute resolution process where a neutral mediator assists you and the District in discussing and attempting to resolve the disagreement. The mediators are not employees of the District and do not have any personal interest in the disagreement. The mediators are selected on an impartial basis by the State and know the laws and regulations relating to the provision of special education and related services. The Mediation Only process includes a mediation conference attended by you, the assigned mediator, and a District representative who has decision-making authority.

To request Mediation Only, complete the “Request for Mediation Only” form available online at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Request-for-Mediation-Only-Form?search=Request%20for%20Mediation%20Only>.

Once you have completed the form, federal and state laws require you to send or deliver a copy to each of the named parties and to file the complaint with OAH.

To “file” the complaint with OAH, the document must be e-filed (sent via the internet) using OAH’s Secure e-File Transfer (SFT) system, mailed, hand delivered, or sent by overnight delivery, to the OAH offices in Sacramento, CA. OAH no longer accepts any documents via facsimile transmission. Please note that in order to use OAH’s SFT, you need to have an email address. If you do not have an email address or are unable to use the SFT, please contact OAH for assistance at:

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

Website: <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education>  
Secure File Transfer: <https://www.dgsapps.dgs.ca.gov/OAH/OAHSFTWeb>

After receiving your request for Mediation Only, OAH will schedule a mediation conference. Attorneys and paid advocates may not attend the mediation conference held during the Mediation Only process. At a mediation conference, the mediator will help you and the District understand each other’s point of view. The mediator may also offer options for you and the District to consider. What is said at a mediation conference is confidential and cannot be used in any due process hearing or civil proceeding. If you and the District reach an agreement, the terms of the agreement will be put in writing and must be signed by you and the District representative. Once the agreement is signed, it is enforceable under State and Federal law.

Requesting Mediation Only does not preclude either you or the District from requesting a due process hearing. If the Mediation Only process does not resolve the disagreement, either you or the District may file a Request for Mediation and Due Process Hearing.

### **Request for Due Process Hearing**

The request for Due Process Hearing begins with the submission of a complaint notice and includes a resolution period with a mandatory resolution session meeting, optional mediation, and a due process hearing before an impartial hearing officer. The Office of Administrative Hearings (OAH) will determine if a case is “expedited” (will take place on a faster timeline than most hearings) based on the law. The District convenes the resolution session meeting and OAH conducts the optional mediation and the due process hearing. It may not be necessary to go through all of the proceedings to reach resolution. A due process complaint may be resolved by mutual agreement of the parties at any stage of the proceedings.

The District is required to initiate a due process request if the District determines that the proposed special education program component to which you do not consent is necessary to provide a free appropriate public education to your child. The exception to this is a situation in which you fail to respond or consent to the initial provision of special education and related services for your child.

While a resolution session, mediation conference, or due process hearing is pending, your child shall remain in his or her current placement, unless you and the District agree otherwise. If a due process hearing is held, the hearing decision shall be binding upon the parties.

### **Submission of a Request for Mediation and Due Process Hearing**

To request a Due Process Hearing, please complete a “Request for Mediation and Due Process Hearing” form available online at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Forms/Request-for-Mediation-and-Due-Process-Hearing-Form?search=Request%20for%20Mediation%20and%20Due%20Process%20Hearing>. If you prefer, you may submit a complaint notice that contains the following information: (1) the name of the child, (2) the address of the residence of the child or available contact information for the child if the child is homeless, (3) the name of the school the child is attending, (4) a description of the nature of the problem, and (5) a proposed resolution to the problem to the extent known and available at the time. Once you have completed the complaint form, federal and state laws require you to send or deliver a copy to each of the named parties

and to file the complaint with OAH.

To “file” the complaint with OAH, the document must be e-filed (sent via the internet) using OAH’s Secure e-File Transfer (SFT) system, mailed, hand delivered, or sent by overnight delivery, to the OAH offices in Sacramento, CA. OAH no longer accepts any documents via facsimile transmission. Please note that in order to use OAH’s SFT, you need to have an email address. If you do not have an email address or are unable to use the SFT, have questions about the mediation and hearing process, please contact OAH for assistance at:

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

Website: <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education>  
Secure File Transfer: <https://www.dgsapps.dgs.ca.gov/OAH/OAHSFTWeb>

Additional information regarding the necessary components of a Request for Mediation and Due Process Hearing are available on OAH’s website at [www.oah.dgs.ca.gov](http://www.oah.dgs.ca.gov).

In order for the complaint to go forward, it must contain the required information described above. Within fifteen (15) days of receipt of the complaint notice, the party receiving the complaint notice (i.e., the District if you file) may file an objection to the complaint notice on grounds that the complaint notice does not contain the information required by law. If an objection is filed, the OAH must render a decision on the sufficiency of the notice within five (5) days, and provide both parties with written notification of the determination.

You may make changes to your complaint notice only if: (1) the District approves the changes in writing and is given a chance to resolve the due process complaint through a resolution meeting or (2) a hearing officer grants you permission to amend your complaint no later than five (5) days before the due process hearing begins. You may not change your complaint notice after the hearing begins.

If you make changes to your complaint, you will be required to submit an amended complaint notice. Once you submit the amended complaint notice, the timelines for the resolution period and resolution session (described in the next section) will start again.

#### Resolution Period

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), mandates a thirty (30) day resolution period prior to the commencement of a due process hearing. This resolution period is intended to give parents and schools expanded opportunities to resolve disagreements in positive and constructive ways. With respect to the resolution period, IDEA 2004 includes the following procedures:

If the District has not sent a prior written notice to you regarding the IEP in dispute, the District is required to send a written response to your complaint within ten (10) days of its receipt of the Request for Mediation and Due Process Hearing. The District’s response will include, among other things, an

explanation of why the District proposed or refused to take the action raised in the complaint notice, a discussion of the options considered, and a description of the information the District used to make the determination. The response may also include a proposed resolution or proposed activity (e.g., reconvening the IEP team meeting) to address the issues raised in the complaint notice.

Within fifteen (15) days of the District's receipt of the complaint notice, the District will schedule a resolution session unless you and the District agree in writing to waive the meeting or agree to use the mediation process instead. Except in those cases where you and the District have agreed in writing to waive the resolution session, your failure to participate in the resolution session will delay the timelines for the resolution process and due process hearing. Further, if you fail to participate in a resolution session after the District has made repeated attempts to schedule the session, the District may request that OAH dismiss your due process complaint. If the District fails to schedule the resolution session within fifteen (15) calendar days of receipt of your complaint notice, or fails to participate in the resolution session, you may ask OAH to order that the due process hearing timelines begin prior to the end of the thirty (30) day resolution period.

The purpose of the resolution session is to discuss your complaint and to provide the District with an opportunity to resolve the dispute. The resolution session will include a relevant member or relevant members of the IEP team, a District representative who has decision-making authority, and you. The District may not have an attorney present unless you have an attorney present. If a resolution is reached at the resolution session, the parties will execute a legally binding written settlement agreement that is enforceable in a court of law. Either party may void the agreement within three (3) business days of the date on which it was signed.

If your complaint has not been resolved to your satisfaction within thirty (30) days of the date the District received the complaint notice, the due process hearing may occur and all of the applicable timelines for a due process hearing shall commence.

#### Optional Mediation

Prior to the due process hearing, the parties may elect to participate in a mediation conference. This pre-hearing mediation conference is similar to the conference held during the Mediation Only process except that attorneys may participate in the pre-hearing mediation conference. When a pre-hearing mediation conference is requested, the Parties named in the due process matter work collaboratively with you to schedule a time and date for the mediation and OAH assigns a mediator. The role of the mediator is to assist you and the District in resolving the disagreement relating to your child's IEP. If an agreement is reached at the mediation conference, the terms of the agreement will be written into a settlement agreement that is enforceable after it is signed by you and a District representative. If the mediation conference does not result in an agreement, the matter will proceed to hearing.

#### Due Process Hearing

A due process hearing is a more formal resolution process. It is conducted by an OAH administrative law judge or "hearing officer." Procedurally the hearing is like a trial. Evidence is presented and witnesses testify and are cross examined. Hearing officers may question witnesses, have experts discuss issues with each other, visit placement sites, call witnesses, and order independent evaluations. The Hearing will focus on the issues identified in the due process hearing request, which may include whether your child received or was offered a free and appropriate public education (FAPE) under State and Federal law.

Procedural violations do not necessarily result in a denial of FAPE. In matters alleging a procedural violation, the hearing officer may find that your child did not receive FAPE only if: (1) the procedural violation interfered with the child's right to FAPE; (2) significantly interfered with your opportunity to participate in the IEP process; or (3) caused a deprivation of educational benefit.

The due process hearing must be held and a written decision provided to all parties within forty-five

(45) days of the expiration of the thirty (30) day resolution period, unless the hearing officer grants an extension of time at the request of one of the parties. At a due process hearing you and the District have the right to:

- A fair and impartial administrative hearing conducted by a person who is knowledgeable of the laws governing special education and administrative hearings;
- Be informed of the other party's issues and proposed resolution(s) at least ten (10) calendar days prior to the hearing;
- Receive notice of attorney representation from the other party at least ten (10) days prior to the hearing;
- Receive from the other party a copy of all documents to be used by the other party at hearing, including any evaluations, and a list of witnesses, indicating their general area of testimony, at least five (5) business days before the hearing (failure to provide documents in a timely manner can result in exclusion of the documents);
- Be accompanied and advised by an attorney;
- Present evidence written arguments, and oral arguments;
- Confront, cross-examine, and require witnesses to be present;
- Receive a written or electronic copy of findings of fact and decisions;
- Obtain a written or electronic record of the hearing (at no cost for parents).

In addition, you have the right to request that the hearing be open or closed to the public, have your child present at the hearing, and have an interpreter provided.

Decisions of hearing officers are binding on all parties, but may be appealed to a State or Federal Court within ninety (90) days of the final decision. If you are the prevailing party in the decision, you may be awarded reasonable attorneys' fees either by agreement with the District or by a court. If you are not the prevailing party, a court may award the District its attorneys' fees against your attorney if the due process complaint is found to be frivolous, unreasonable, or without foundation. A court may also award the District its attorneys' fees against you or your attorney if the due process complaint was presented or maintained for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

#### Placement of Student During Due Process Proceedings

Except for certain alternative educational placements (*see* "Information About Discipline" in this guide), during the process of resolving a disagreement through a due process hearing, your child will remain in his or her current placement, and will receive the services he/she was receiving at the time the due process hearing was initiated, unless you and the District agree to some other arrangement. If the disagreement involves an application for initial admission to public school, your child, with your consent, will be placed in the public school program until the completion of all proceedings.

If the complaint involves a student who is transitioning from services under Part C of the IDEA (ages 0-3) to services under Part B (ages 3-22) and who is no longer eligible for Part C services because the child has turned three, the District is not required to provide the Part C services that the child has been receiving. Rather, during the due process proceedings the District is required to provide those special education and related services offered in the student's IEP that are not in dispute.

#### ***Your Right to File a Complaint***

Uniform Complaint Procedures are procedures used to resolve complaints regarding violations of special education law. There are procedures for local complaints, which are filed with the District, and procedures for State complaints, which are filed with the California Department of Education.



Complaints must be made within six (6) months of the alleged violation. Once your complaint is received, the District has sixty(60) days to investigate and resolve the complaint, unless you agree to an extension of time.

If you disagree with the resolution of the complaint you may appeal the decision, within fifteen (15) days of receiving the District's written decision, to the California Department of Education or seek civil law remedies. If the complaint involved disability-based discrimination, it may be appealed to the District's Educational Equity Compliance Office. All appeals must include a copy of the original complaint and the District's decision.

### **State Complaints**

Instead of a local complaint, you can file a complaint directly with the California Department of Education (CDE). The CDE will intervene if your complaint states that:

- there has been a violation of the Federal law governing special education;
- your child is not receiving services as stated in his or her IEP;
- your child or a group of children are in immediate physical danger or that their health, safety, or welfare is threatened;
- the District fails or refuses to comply with Federal and State due process procedures or to implement a due process hearing order;
- a public agency, other than the District, fails or refuses to comply with a law or regulation relating to the provision of special education services; or
- the District has failed to follow local complaint procedures.

You can send your written and signed complaint to:

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

Once your complaint is received, the CDE will investigate the complaint and provide you with a written decision within sixty (60) days, unless circumstances allow for an extension. An alternative to waiting the sixty (60) days for a written decision from the CDE is to voluntarily engage in the District's Alternative Dispute Resolution (ADR) process, which is supported and recognized by the CDE. The goal of the ADR process is to resolve the complaint in an expedited manner.

Within thirty (30) days of the resolution of your complaint, the CDE will contact you to confirm the successful resolution of your complaint. If you are dissatisfied with the resolution, you may appeal to the United States Department of Education.

If you need additional information regarding filing a complaint with the CDE, you may call the CDE Quality Assurance Unit at (800) 926-0648.

***Your Child's Right to be Protected from Discrimination and Harassment***

The Tri-Valley SELPA is committed to providing a working and learning environment that is free from discrimination and harassment based on an individual's sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color or mental or physical disability, or any other basis protected by Federal, State, local law, ordinance, or regulation. Harassment under Title IX (sex), Title VI (race, color, national origin), and Section 504 and Title II of the Americans with Disabilities Act (mental or physical disability) is a form of unlawful discrimination that will not be tolerated by the District. Harassment is intimidation or abusive behavior toward a student/employee that creates a hostile environment, and can result in disciplinary action against the offending student or employee. Harassing conduct can take many forms, including verbal acts and name-calling, graphic and written statements, or conduct that is physically threatening or humiliating.

This nondiscrimination policy covers admission or access to, or treatment or employment in, District programs and activities, including vocational education. The lack of English language skills will not be a barrier to admission or participation in District programs or activities.

Additional information prohibiting other forms of unlawful discrimination/harassment, inappropriate behavior, and/or hate crimes may be found in other District policies that are available in all schools and offices. It is the intent of the District that all such policies are read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities.

All employees will conduct themselves in the course of their employment by word, gesture, act and demeanor so as to ensure that all students will be accorded just and equitable regard and treatment. Discrimination/harassment in any form toward students on the basis of their disabilities is unacceptable, unethical, and shall not be tolerated. Any violation of this policy will be investigated and subject to disciplinary action.

All divisions, offices, and branches in the District have distinct responsibilities in enforcing this policy as directed by the Board of Education and the Superintendent.

Executive staff, administrators, all divisions, local districts, and local school site administrators shall be held accountable for enforcing this policy.

The District prohibits retaliation against anyone who files a complaint or who participates in a complaint investigation.

Disability-based harassment is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits in the District's programs or activities. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating. In order to rise to the level of unlawful discrimination, the conduct must be unwelcome, severe or pervasive, and unreasonably disruptive of an individual's educational or work environment or must create a hostile educational or work environment.

## **INFORMATION ABOUT REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT WITHOUT CONSENT OF OR REFERRAL BY THE DISTRICT**

The District is not required to pay for the private school education, including special education services, of a child with disabilities if the District made available to the child appropriate special education services at a District school, but you chose to place your child in a private school or facility.

If your child previously received special education services at a District school and you enrolled your child in a private school without the consent of or referral by the District, a court or a due process hearing officer may require that the District reimburse the parents for the private school placement if the District did not make the appropriate special education services available to the child in a timely manner prior to the child's enrollment in the private school.

Reimbursement may be reduced or denied if you did not give the District notice that:

- You were rejecting the District's placement;
- What your concerns were regarding the placement; and
- Your intent to enroll your child in a private school and request reimbursement from the District.

You must provide this notice to the IEP team at an IEP meeting prior to removing your child from public school, or you must provide the notice to the District in writing at least ten (10) business days prior to removing your child from public school.

Reimbursement may be reduced or denied if, prior to placing the child in private school, the District appropriately gave the child's parents notice of its intent to assess the child, but the parents did not make their child available for such assessment. The court may also reduce or deny reimbursement if it finds that the parents' actions were unreasonable.

Reimbursement will not be reduced or denied for failure to provide notice if you are illiterate and cannot write in English, providing notice would result in physical or serious emotional harm to the child, or the school prevented you from providing notice.

## **INFORMATION ABOUT DISCIPLINE**

Students with disabilities are expected to follow the codes of conduct specified in the District's *Parent Student Handbook*. You should review the codes of conduct with your child so that he/she is aware of what behavior is expected at school. If your child is having behavioral problems at school, either you or school personnel may request an IEP team meeting to discuss appropriate instruction, behavioral support techniques, and/or behavioral supports that may assist in improving your child's behavior. If the behavior is serious, either you or school personnel may request a Functional Behavior Assessment (FBA). Findings from the FBA may be used to develop or modify a Behavior Support Plan.

School personnel may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension, for not more than ten (10) school days. If school personnel recommend a change in placement (e.g., suspension, IAES, or expulsion that would exceed ten (10) school days), an IEP team meeting will be held as soon as possible, but no later than within ten (10) school days, to determine whether the behavior that gave rise to the violation of the school code was a manifestation of the child's disability. Under the IDEA, a child's conduct is a manifestation of his or her disability if: (1) the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or (2) the

conduct was the direct result of the District's failure to implement the child's IEP.

If the IEP team determines that the behavior was not a manifestation of the child's disability, the school may discipline the child in the same manner in which it would discipline children without disabilities. If the discipline involves a change of placement, the new placement will be determined by the IEP team. In the new placement the child will continue to receive educational services to enable the child to continue to participate in the general education curriculum and to progress toward meeting his or her IEP goals. The child may also receive a functional behavior assessment, and behavioral intervention services and modifications, as appropriate so that the conduct in question does not happen again.

School personnel may remove a student to an IAES for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child carries or possesses a weapon, knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance, or inflicts serious bodily injury upon another person while at school, on school premises, or at a school function. In such instances, the IAES will be determined by the child's IEP team. If the behavior does not involve a weapon, illegal drugs, or infliction of serious bodily injury, the District may request a hearing if it believes that maintaining the current placement is substantially likely to result in injury to the child or others. In making a determination in such a hearing, a hearing officer may order a change in placement to an appropriate IAES for not more than forty-five (45) school days.

If you disagree with: (1) any decision regarding placement resulting from or following disciplinary action; or (2) a manifestation determination, you may request an expedited due process hearing to appeal the decision or determination. The timelines for expedited hearings are faster than non-expedited due process proceedings. The timeline for conducting an expedited hearing is twenty (20) school days after a request for hearing is made and the hearing officer is to render a decision within ten (10) school days after the hearing. During the expedited hearing proceedings, your child will remain in the IAES unless you and the District agree otherwise. While in the IAES the child will continue to receive educational services to enable the child to continue to participate in the general education curriculum and to progress toward meeting his or her IEP goals.

### ***Protections for Children Not Yet Eligible for Special Education and Related Services***

If a child who has not been determined eligible for special education and related services violates a code of student conduct, but the District had knowledge before the behavior at issue occurred that the child had a disability, the child may assert any of the special education protections described above. The District is deemed to have knowledge that the child had a disability if before the behavior occurred:

1. The parent expressed concern in writing that the child is in need of special education and related services to District administrative personnel or to the child's teacher;
2. The parent requested a special education evaluation; or
3. The child's teacher, or other District personnel, expressed specific concerns about a pattern of behavior demonstrated by the child to administrative personnel.

The District will not be deemed to have knowledge if the child's parent has not allowed an evaluation or has refused special education services. The District will also not be deemed to have knowledge if the child has been evaluated and was found not eligible for special education and related services or if the parent has revoked consent for the continued provision of special education and related services. In such cases, the District may discipline the child in the same manner in which it would discipline children without disabilities.

If a request for an evaluation is made during the time a child is being disciplined, the District will conduct the evaluation in an expedited manner. Until the evaluation is completed, the child will remain in the educational placement determined by school authorities, which can include suspension or expulsion. If the child is determined to be eligible under the IDEA the District is required to provide special education and related services and adhere to the procedural safeguards set forth in this Guide.

### ***Reporting of Crimes***

The IDEA does not prohibit the District or its personnel from reporting a crime committed by a child with a disability to appropriate authorities. Nor does it prevent law enforcement and judicial authorities from exercising their responsibilities under the law. If the District reports a crime committed by a child with a disability, the District will ensure that copies of special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities.

### **INFORMATION ABOUT SURROGATE PARENTS**

To protect the rights of a child, the District must determine if he or she needs a surrogate parent, and if appropriate, assign a surrogate parent when:

- No parent or guardian can be identified;
- The District, after reasonable efforts, cannot find the parent or guardian; or
- The child is a ward of the State;
- The court has specifically limited the right of the parent or guardian to make educational decisions;
- A youth is homeless and not in the physical custody of a parent or guardian.

The District must ensure that the person selected to be a surrogate parent has no interest that conflicts with the interest of the child he or she represents. In addition, the person selected should have the knowledge and skills to adequately represent the child.

The surrogate parent may not be a person employed by the District. A person is not an employee of the District solely because he or she is paid by the District to serve as a surrogate parent.

The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and developing, reviewing and revising the IEP, and in other matters relating to the child's special education services. The surrogate parent may sign any consent relating to the special education process and purposes.

A surrogate parent will be held harmless by the State of California when acting in his or her official capacity except for wanton, reckless, or malicious acts or omissions.

## FREQUENTLY USED ACRONYMS

<b>APE</b>	Adapted Physical Education
<b>ASL</b>	American Sign Language
<b>AT</b>	Assistive Technology
<b>BSP</b>	Behavior Support Plan
<b>CAC</b>	Community Advisory Committee
<b>CDE</b>	California Department of Education
<b>DIS</b>	Designated Instruction and Services (Related Services)
<b>ESY</b>	Extended School Year
<b>FAPE</b>	Free Appropriate Public Education
<b>504</b>	Section 504 of the Rehabilitation Act of 1973
<b>IDEA</b>	The Individuals with Disabilities Education Act
<b>IEE</b>	Independent Educational Evaluation
<b>IEP</b>	Individualized Education Program
<b>ITP</b>	Individual Transition Plan
<b>LAUSD</b>	Los Angeles Unified School District
<b>LRE</b>	Least Restrictive Environment
<b>LEP</b>	Limited English Proficient
<b>NPA</b>	Nonpublic Agency
<b>NPS</b>	Nonpublic School
<b>OCR</b>	Office for Civil Rights
<b>OT</b>	Occupational Therapy
<b>PT</b>	Physical Therapy
<b>RSP</b>	Resource Specialist Program
<b>SDP</b>	Special Day Program
<b>SSPT</b>	Student Support and Progress Team

### **Other Information Resources**

If you would like more information about special education or have further questions regarding your child's education, you may contact any of the following:

- Your child's teacher
- Your child's school principal

#### **Tri-Valley SELPA**

Director - (925) 426-9144  
[www.tri-valleyselpa.org](http://www.tri-valleyselpa.org)

#### **Dublin Unified School District**

Special Education Director - (925) 828-2551 x8031  
[www.dublin.k12.ca.us](http://www.dublin.k12.ca.us)

#### **Livermore Valley Joint School District**

Special Education Director - (925) 606-3286  
[www.livermoreschools.org](http://www.livermoreschools.org)

#### **Pleasanton Unified School District**

Special Education Director - (925) 426-4293  
[www.pleasantonusd.net](http://www.pleasantonusd.net)

#### **Mountain House School District**

Administrator - (209) 835-2283  
[www.mtnhouse.k12.ca.us](http://www.mtnhouse.k12.ca.us)

#### **Sunol Glen Unified School District**

Superintendent - (925) 862-2026  
[www.sunol.k12.ca.us/specialed](http://www.sunol.k12.ca.us/specialed)

#### **Alameda County Office of Education**

Special Education Director - (510) 846-4226  
[www.acoe.org](http://www.acoe.org)

